



IN THEIR OWN WORDS:

**A GUIDE TO STATES' CONCERNS REGARDING
THE ENVIRONMENTAL PROTECTION AGENCY'S
PROPOSED GREENHOUSE GAS REGULATIONS
FOR EXISTING POWER PLANTS**

U.S. CHAMBER OF COMMERCE
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EXECUTIVE SUMMARY

Affordable, reliable, and secure energy provides U.S. business with a critical economic advantage in an increasingly competitive global economy. Nearly every leading industry in the country—from manufacturing and construction to agriculture and transportation—benefits greatly from the nation’s rich energy resources.

The Environmental Protection Agency (EPA) has proposed a far-reaching new rule under the Clean Air Act (CAA) §111(d) that would severely curtail greenhouse gas emissions from the entire electric power sector. Released in June 2014, EPA’s proposal—ensconced in more than 1,600 pages of material—would require states to meet stringent emission goals, and to comply, would significantly transform how electricity in America is generated, distributed, and used (see box below for a summary of the rule).¹

Consistent with the notion of co-operative federalism that underlies the CAA, EPA has repeatedly emphasized that cooperation with states and stakeholders will be a centerpiece of its regulatory development process. The agency stated that it has

“conducted unprecedented outreach with states and as a result of what we learned, our proposal sets up a national framework that gives states the power to chart their own customized path to meet the carbon-dioxide-emissions targets proposed for each state.”²

Similarly, EPA Administrator Gina McCarthy has said that the rulemaking process will be

“an absolute collaboration between the federal and state government . . . a partnership if there ever was one.”³

The extremely complex and confusing structure of the proposed rule sent states and stakeholders scrambling to understand its specific implications for their communities and industries. Now, after six months of review and analysis, comments have come in from the states and other entities that would actually have to implement EPA’s plan.⁴ These comments—filed primarily by state air regulators, public utility commissions, and

BY THE NUMBERS

28: State governors or attorneys general have raised major concerns with the rule’s legal foundations

12: States are suing EPA regarding its authority to promulgate carbon regulations

6: States have passed legislation into law restricting state responses to the rule

¹ Available at <http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule>

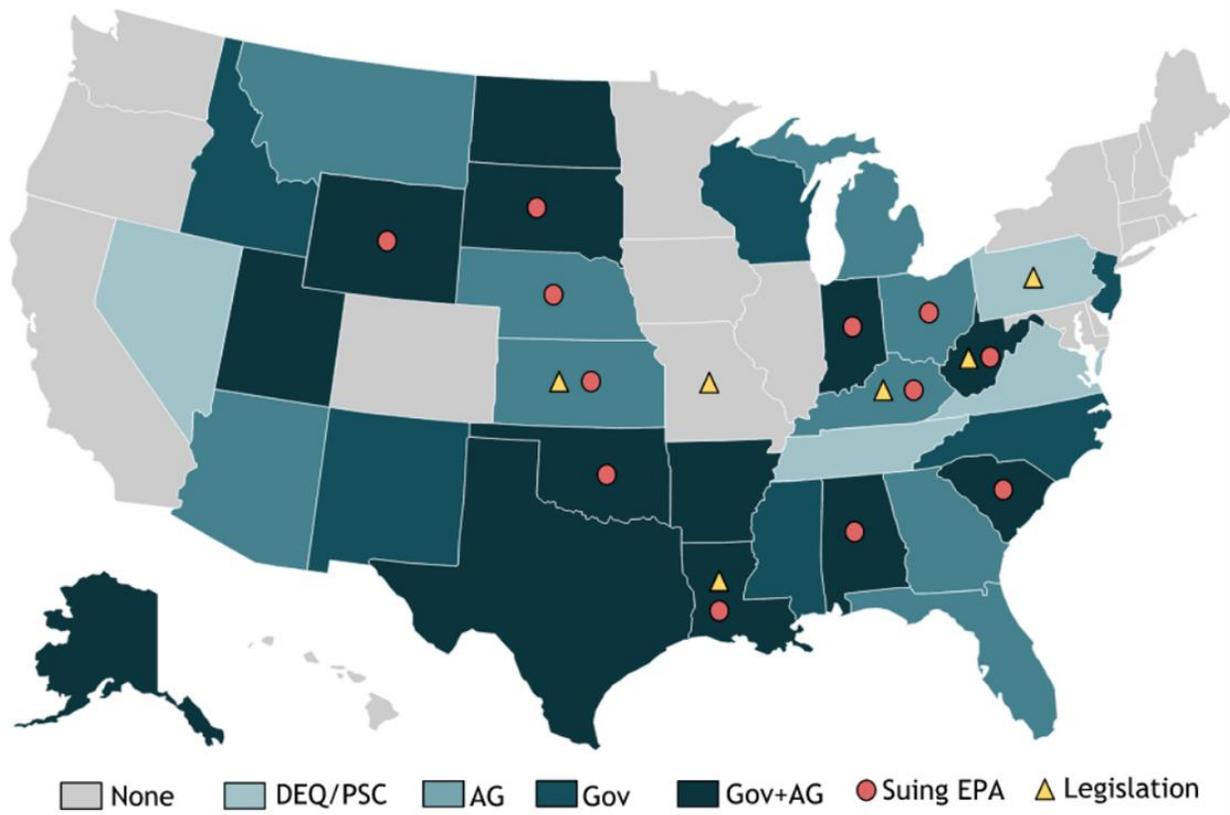
² <http://www.wsj.com/articles/epa-has-followed-the-law-on-the-clean-power-plan-letters-to-the-editor-1420408715>

³ <http://thehill.com/policy/energy-environment/202816-epas-mccarthy-pledges-state-flexibility-in-power-plant-rule#ixzz33ncdri7K>

the like—reveal widespread concerns about the design, content, and legality of the approach the Agency has proposed.

As shown in Figure 1, 28 different states have raised fundamental concerns with the legal foundations of the rule at the highest levels of government (either governor or attorney general). Twelve states are suing EPA regarding its authority to promulgate carbon regulations under 111(d), and six states have passed legislation into law restricting state responses to the rule, generally by either prohibiting compliance with EPA’s legally questionable outside-the-fence building blocks or by requiring legislative approval of state implementation plans.

Figure 1.
State Legal Objections to EPA Carbon Regulations



Note: Map compiled as of January 9, 2015 based on official comments in regulatory docket as well as other public letters and statements. Objections from state environmental agencies or public service commissions are shown only in absence of objections from governor or attorney general.

⁴ The complete docket is available at <http://www.regulations.gov/#!docketBrowser;rpp=25;so=DESC;sb=postedDate;po=0;dct=PS;D=EPA-HQ-OAR-2013-0602>



Although too numerous and complex to adequately characterize in a single document, this report attempts to summarize some of the most significant and common themes raised by states. The concerns detailed in this guide address the following 12 areas:

- 1. The Legality of the Rule**
- 2. The Rule's Impact on Electricity Prices, Jobs and the Economy**
- 3. The Rule's Impact on Electricity Reliability**
- 4. The Rule's Technological Assumptions and Associated Impact on Compliance Flexibility and Achievability**
- 5. The Presence of Mistakes and Errors Within the Rule**
- 6. The Rule's Accelerated Timeline for Finalization and Implementation**
- 7. The Achievability of the Rule's Interim Targets**
- 8. The Rule's Use of 2012 as the Baseline Year and the Associated Impact on Early Actors**
- 9. The Rule's Treatment of Nuclear Generation**
- 10. The Rule's Lack of Consideration of Stranded Costs**
- 11. The Rule's Goals in Comparison to those set for New Power Plants**
- 12. The Rule's Estimation of Plants' Generation Capacity and Resultant Impact on State Targets**

This review found that a majority of states raised concerns or objections in 8 of the 12 issue areas that were reviewed as part of this analysis (Tables 1 & 2). For example, 32 states made legal objections, 28 raised significant concerns regarding compliance costs and economic impacts, 32 warned of electricity reliability problems, and 34 states objected to EPA's rushed regulatory timelines. These figures should be considered conservative, as several states avoided commenting on certain topics, particularly if the issue was outside of the filing entity's authority or expertise. As a result, silence from states on any given issue should not be considered to imply an absence of concern.

Table 1. Summary of Findings

ISSUE	Number of States Raising Concerns
1. The Legality of the Rule	32
2. The Rule’s Impact on Electricity Prices, Jobs & the Economy	28
3. The Rule’s Impact on Electricity Reliability	32
4. The Rule’s Technological Assumptions & Associated Impact on Compliance Flexibility & Achievability	
4(a). Building Block 1 Achievability	34
4(b). Building Block 2 Achievability	35
4(c). Building Block 3 Achievability	20
4(d). Building Block 4 Achievability	17
5. The Presence of Mistakes & Errors Within the Rule	28
6. The Rule’s Accelerated Timeline for Finalization & Implementation	34
7. The Achievability of the Rule’s Interim Targets	30
8. The Rule’s Use of 2012 as the Baseline Year & the Associated Impact on Early Actors	33
9. The Rule’s Treatment of Nuclear Generation	24
10. The Rule’s Lack of Consideration of Stranded Costs	22
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12. The Rule’s Estimation of Plants’ Generation Capacity & Resultant Impact on State Targets	16

Countless additional and state-specific concerns raised during the comment period not addressed here are no less significant. These include, for example: massive disparities among state goals; lack of clarity regarding the crediting of electricity exported/imported across state borders; accounting for biomass-based generation and emissions; failure to adequately credit hydroelectric generation; confusion regarding the rule's triggering of New Source Review requirements; inadequate guidance on rate-to-mass conversion procedures; and the need for EPA to provide states resources for implementation plan development.

Administrator McCarthy has stated that one of her top priorities throughout the regulatory development process is to ensure “that people look at it and say, ‘EPA listened.’”⁵ Similarly, in a January 6, 2015 blog post, EPA Assistant Administrator for Air and Radiation Janet McCabe stated:

“As of the December 1 deadline for submitting comments on the proposed Clean Power Plan, EPA received more than 2 million comments, covering a wide range of issues including system reliability, and *we are absolutely committed to reviewing those comments and ensuring that the final Clean Power Plan reflects and responds to them* [emphasis added].”⁶

“When an agency claims to discover in a long-extant statute an unheralded power to regulate ‘a significant portion of the American economy,’ . . . we typically greet its announcement with a measure of skepticism.”

- U.S. Supreme Court,
Utility Air Regulatory Group v. EPA

The extent and magnitude of state concerns presented in this guide illustrate not only the shortcomings in EPA’s proposal, but the immense challenge—and opportunity—that the agency has to follow through on its commitment to listen, cooperate, and make the regulation a truly collaborative partnership. If the major flaws with the rule that have been identified by states are left unaddressed, the end result will be a significantly more expensive, less reliable electricity system that will have negative repercussions across the entire U.S. economy.

⁵ <http://www.washingtonexaminer.com/epa-administrator-gina-mccarthy-epa-listened-on-carbon-rules/article/2546880>

⁶ <http://blog.epa.gov/epaconnect/2015/01/time-and-flexibility/>

Table 2. Matrix of State Comments by Area of Concern (for references and additional details see Appendix 2)



STATES	(1) Legality	(2) Economics/ Costs	(3) Reliability	(4a) Block 1: Coal Plant Efficiency	(4b) Block 2: Redispatch to NGCC	(4c) Block 3a: Renewables	(4d) Block 4: Energy Efficiency	(5) Mistakes/Errors	(6) Rushed Regulatory Timeline	(7) Interim Targets	(8) Baseline Year/ Credit for Early Action	(9) Crediting of Nuclear Generation	(10) Stranded Assets	(11) ESPS More Stringent than NSPS	(12) Generation Capacity
AL	●	●	●	●	●	●			●	●	●				●
AK	●	●	●	●	●	●	●	●	●				●		
AZ	●	●	●	●	●		●			●	●	●		●	●
AR	●	●	●	●	●	●		●	●	●					
CA															
CO		●	●	●	●		●	●	●	●	●				●
CT						●		●				●			
DE															
FL	●	●	●	●	●	●	●	●	●	●	●	●	●		●
GA	●	●	●	●	●			●	●	●	●	●	●		
HI						●		●							
ID	●				●		●		●	●	●	●			
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IN	●	●	●	●	●	●	●	●	●	●	●	●	●		●
IA			●	●	●			●	●	●	●	●			
KS	●	●	●	●		●	●	●	●	●	●	●	●		
KY	●	●	●	●	●	●			●	●	●	●	●		
LA	●	●	●	●	●	●	●	●	●	●		●			●
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MI	●	●	●	●	●				●	●	●	●		●	
MN								●		●	●	●			
MS	●	●	●	●	●	●		●	●	●	●	●	●	●	
MO		●	●	●	●		●		●	●	●	●			
MT	●	●	●	●	●			●	●	●	●	●			
NE	●		●	●	●	●						●	●		
NV	●	●	●	●	●			●	●	●	●	●	●		●
NH				●							●	●			
NJ	●	●	●		●				●		●	●		●	
NM	●	●		●	●	●		●	●	●	●				●
NY			●		●	●		●	●	●	●	●			●
NC	●	●	●	●	●		●	●	●	●	●	●	●	●	●
ND	●			●	●	●	●	●	●	●	●	●	●		
OH	●	●	●	●	●	●		●	●	●	●	●	●		●
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OR									●		●				
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SC	●		●	●	●			●	●	●	●	●		●	●
SD	●	●	●	●	●		●	●	●	●	●	●	●		
TN	●	●	●	●	●				●		●	●	●		
TX	●	●	●	●	●	●	●	●	●	●	●	●	●	●	
UT	●	●	●	●	●			●	●	●	●	●	●		●
VT															
VA	●	●	●		●		●		●	●	●	●	●	●	
WA											●				
WV	●	●	●	●	●	●	●		●	●		●	●		
WI	●	●	●	●	●	●	●	●	●	●	●	●	●		●
WY	●	●	●	●	●	●	●	●	●	●	●	●	●		●
TOTAL	32	28	32	34	35	20	17	28	34	30	33	24	22	8	16

SUMMARY OF EPA PROPOSED RULE GOVERNING GHG EMISSIONS FROM EXISTING POWER PLANTS

The EPA's proposed rule, published in June 2014, is designed to achieve a 30% reduction in carbon dioxide emissions from the U.S. power sector in 2030 compared to emissions in 2005. Using a base year of 2012, the proposal establishes emission rates, measured in pounds of carbon dioxide per kilowatt hour, each state (except Vermont and the District of Columbia) must achieve by 2030. It also establishes interim goals for 2020 through 2029 that must be met on average over that period. The state-by-state goals proposed by EPA range from an 11% to 72% reduction in 2012 emissions rates.

While the focus of the plan is on fossil fuel electricity generating units above 25 MW of generating capacity, in setting its state-level standards EPA looked at the potential for emissions reductions "outside the fence line" of these units. EPA identified four "building blocks" that States could use to meet their goals, only one of which is "inside the fence line." These building blocks include:

1. Reducing the carbon intensity of coal plants by an average of 6% through heat rate improvements.
2. "Re-dispatching" generation from coal-fired power plants to natural gas combined cycle plants (including those under construction) so that these plants operate, where possible, at a 70% capacity factor.
3. Further substituting emissions from fossil fuel plants by preserving 5.8% of existing nuclear capacity, completing new nuclear capacity under construction, and increasing non-hydroelectric renewable electric generating capacity to achieve the regional average of renewable portfolio standards.
4. Reducing demand from fossil fuel plants through enhanced demand-side energy management that ultimately improves energy efficiency by 1.5% per year.

Under this controversial and unprecedented outside-the-fence portfolio approach, the EPA is effectively requiring entities that are not fossil fuel EGUs to be legally responsible for actions under the plan to achieve the desired emissions rate. Multi-State compliance is also an option.

Under executive direction from President Obama, EPA aims to issue a final rule in June 2015 and give states until June 2016 to submit implementation plans, which may be extended for one year for single-state plans and two years for multi-state plans.



OVERVIEW OF STATE COMMENTS ON EPA PROPOSED RULE BY AREA OF CONCERN

1. The Legality of the Rule

States Raising Concern

Rhetoric:

“But the fact is that what we have done in this rule is completely within the four corners of 111(d), which directs us to identify the best system of emission reduction that has been adequately demonstrated for the particular sector that we are looking at.”

– Janet McCabe, EPA Assistant Administrator for the Office of Air and Radiation

Reality:

“[T]he Clean Air Act generally and Section 111(d) specifically do not give EPA that breathtakingly broad authority to reorganize states’ economies. ‘Congress . . . does not, one might say, hide elephants in mouseholes.’ . . . Congress did not hide the authority to impose a national energy policy in the ‘mousehole’ of this obscure, little-used provision of the Clean Air Act, which EPA has only invoked five times in 40 years. The proposed rule has numerous legal defects, each of which provides an independent basis to invalidate the rule in its entirety.”

– Attorneys General of AL, FL, GA, IN, KS, LA, MI, MT, NE, ND, OH, OK, SC, SD, UT, WV, and WY

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32

EPA’s attempted takeover of the U.S. electricity system through its Clean Power Plan rests on unprecedented and highly-questionable legal interpretations of the Clean Air Act (CAA). States and other stakeholders have raised countless legal concerns with the proposed rule, but the following fundamental issues have emerged as common themes:

- **Prohibition on double-regulation of sources:** First, the Agency claims it can regulate greenhouse gas emissions from fossil fuel power plants under a rarely-used portion of the Act, §111(d), despite statutory language prohibiting EPA from regulating power plants under this section if they are already subject to regulation under §112.
- **Prohibition on outside-the-fence-line mandates:** Second, the Agency claims it can compel states to impose legal obligations on entities “outside the fence line” of the regulated plants—such as requiring greater dispatch of electricity from plants fired



by natural gas instead of coal, increased electricity generation from nuclear and renewable sources, and a reduction in consumer electricity demand—despite statutory language requiring EPA to set emission standards based solely on what can be achieved “inside the fence line.” Indeed, absent a State Implementation Plan, EPA would not be able to require “outside the fence line” emissions reductions because it lacks authority in these areas.

When taken together, these assertions amount to a brazen attempt by EPA to fundamentally redesign U.S. electricity markets, traditionally the purview of the states in our federal system. As the Supreme Court pointedly reminded EPA recently: “When an agency claims to discover in a long-extant statute an unheralded power to regulate ‘a significant portion of the American economy,’ . . . we typically greet its announcement with a measure of skepticism.”⁷ What EPA has proposed is exactly the type of regulatory extremism the Supreme Court cautioned against. As a result, at least 32 states have warned EPA that its rulemaking suffers from fundamental legal shortcomings (see examples [here](#)). In 28 of these states, the warnings have come directly from governors and/or attorneys general.

⁷ *Utility Air Regulatory Group v. EPA*, 134 S. Ct. 2427, 2444 (2014) (“UARG”) (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159 (2000)).

2. The Rule’s Impact on Electricity Prices, Jobs and the Economy

States Raising Concern

Rhetoric:

“Critics claim your energy bills will skyrocket. They’re wrong. Any small, short-term change in electricity prices would be within normal fluctuations the power sector already deals with.”

-- Gina McCarthy,
EPA Administrator

Reality:

“[T]he Commission is confident that if EPA’s proposed BSER is not revised, the stringent emission performance requirements will require substantial compliance costs for Florida . . . Preliminary estimates from the Florida Electric Power Coordinating Group, Environmental Committee, support the conclusion that EPA may have understated the potential range in its estimated direct and indirect costs. These preliminary estimates show that average statewide retail rates could increase 25 to 50 percent by 2030 as a result of the Proposed Rule.”

-- Florida Public Service Commission

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America’s abundance of affordable, reliable energy provides businesses a critical competitive advantage in today’s globalized economy. EPA’s power plant rule and an avalanche of other new power sector regulations threaten to erode this tremendous competitive edge. Detailed analyses and review of the economic impacts of this proposed rule by states and energy experts reveal that it is poised to be one of the most costly and burdensome rulemakings ever promulgated by any agency. EPA’s own analysis of the rule projects that it will result in nationwide electricity price increases of between 6% and 7% in 2020, with increases of up to 12% in some locations. Further, the agency estimates annual electric sector compliance costs between \$5.4 and \$7.4 billion in 2020, climbing to \$8.8 billion in 2030.

EPA’s analysis does not capture the subsequent adverse spillover impacts of higher electricity rates throughout the rest of the economy, which would send total economic costs of the rule higher still. A study by NERA Economic Consulting, for example, found that average U.S. electricity prices would increase by 12% per year and that compliance costs would be at least \$41 billion annually and between \$366 billion to \$479 billion over a 15-year time frame.⁸ Other credible analyses also predict massive compliance costs,

⁸ http://americaspower.org/sites/default/files/NERA_CPP%20Report_Final_Oct%202014.pdf



skyrocketing electricity costs for U.S. businesses and consumers, and huge job losses in key industrial and mining industries.

At least 28 states raised similar concerns in their official public comments, excerpts of which can be found [here](#). As previously noted, it is important to emphasize that a particular state's silence on economic impacts (or any other issue) should not be considered to imply an absence of concern. Many state comments focused only on technical compliance issues, and several noted a reluctance to draw conclusions without undertaking more comprehensive analyses.

3. The Rule’s Impact on Electricity Reliability

States Raising Concern

Rhetoric:

“The President made it really clear, and we’ve said it over and over, and one of the reasons we’re doing so much outreach to the energy world is [because] nothing we do can threaten reliability.”

– Gina McCarthy, EPA Administrator

Reality:

“The proposed timeline does not provide enough time to develop sufficient resources to ensure continued reliable operation of the electric grid by 2020. To attempt to do so would increase the use of controlled load shedding and potential for wide-scale, uncontrolled outages.”

– North American Electricity Reliability Corporation

- AL
- AK
- AZ
- AR
- CO
- FL
- GA
- IN
- IA
- KS
- KY
- LA
- MI
- MS
- MO
- MT
- NE
- NV
- NJ
- NY
- NC
- OH
- PA
- SC
- SD
- TN
- TX
- UT
- VA
- WV
- WI
- WY
- 32

Despite EPA assurances, serious concerns have been raised about the likelihood that EPA’s rule will reduce electric reliability and increase the chance of blackouts. EPA has not been able to assuage these concerns, and it dismisses a growing number of states, Federal Energy Regulatory Commissioners, independent system operators, and other entities calling for more detailed study of potential reliability impacts. Based on little evidence, the agency makes the incredible contention that although its rule will shutter 49 gigawatts of base load coal-fired power plants by 2020—amounting to about 16% of total U.S. coal-fired capacity in 2012—it will not adversely impact reliability.

In contrast, the North American Electricity Reliability Corporation—the independent organization responsible for ensuring grid reliability—concluded that the number of estimated retirements identified by EPA may be too conservative, and that replacing this generation presents a significant reliability challenge. And as Federal Energy Regulatory Commission member Philip Moeller has pointed out, grid reliability should not be left to an agency—EPA—with limited expertise on the subject.⁹ At least 32 states raised similar reliability concerns in their regulatory comments. In light of these widespread concerns, EPA’s continued refusal to look more deeply into grid reliability, an issue posing substantial economic and public safety implications, is extremely troubling. More detailed excerpts regarding reliability concerns can be viewed [here](#).

⁹ From July 29, 2014 Congressional testimony: “Just as the commission does not have expertise in regulating air emissions, I would not expect the EPA to have expertise on the intricacies of electric markets and the reliability implications of transforming the electric generation sector.” Available at <http://www.ferc.gov/about/com-mem/moeller/moeller-12-02-14.pdf>

4. The Rule’s Technological Assumptions and Associated Impact on Compliance Flexibility and Achievability

Rhetoric:	Reality:
<p>“In developing the building block data inputs applied to each state’s historical data to develop the goals, the EPA targeted reasonably achievable rather than maximum performance levels. The overall goals therefore represent reasonably achievable emission performance levels that provide states with flexibility to pursue some building blocks more extensively and others less extensively . . . while meeting the overall goals.”</p> <p>– EPA Proposed Rule</p>	<p>“[T]he Building Blocks contain inaccurate assumptions and unrealistic expectations that informed EPA’s goal for Nebraska. The EPA has said the Building Blocks included in the proposal are guidelines, not mandatory requirements, and that states are free to use any emission reduction strategies they wish, so long as their final emission reduction goals are met. However, a goal that has been established with flawed assumptions results in a rule that is inflexible and overly burdensome.”</p> <p>– Nebraska Department of Environmental Quality</p>

State and stakeholder docket filings on the rule repeatedly emphasize that the EPA’s assumptions on technological feasibility of its building block targets do not take into proper account many of the existing constraints within the electricity system. As a result, states will be hard-pressed to meet EPA’s goals without jeopardizing system reliability and raising compliance costs to consumers. This is not surprising as issues surrounding electricity generation, dispatching, and efficiency that feature prominently in EPA’s approach are

States Raising Concern			
4A	4B	4C	4D
—	—	—	—
AL	AL	AL	AK
AK	AK	AK	AZ
AZ	AZ	AR	CO
AR	AR	CT	FL
CO	CO	FL	ID
FL	FL	HI	IN
GA	GA	IN	KS
IL	ID	KS	LA
IN	IL	KY	MO
IA	IN	LA	NC
KS	IA	MS	ND
KY	KY	NE	PA
LA	LA	NM	SD
MI	MI	NY	TX
MS	MS	ND	VA
MO	MO	OH	WV
MT	MT	OK	WY
NE	NE	TX	
NV	NV	WV	17
NH	NJ	WY	
NM	NM	20	
NC	NY		
ND	NC		
OH	OH		
OK	OK		
PA	PA		
SC	SC		
SD	SD		
TN	TN		
TX	TX		
UT	UT		
WV	VA		
WI	WV		
WY	WI		
	WY		
34			
	35		

well beyond the agency’s historical domain and expertise, both institutionally and legally.

In particular, the achievability of EPA’s individual state emissions rate targets is dependent on the reasonableness of EPA’s assumptions regarding state capabilities to meet the four building blocks it used to develop the individual targets. The EPA has indicated that this building block design—particularly the “outside-the-fence-line” actions in building blocks two through four—maximize state compliance flexibility. In her speech announcing the rule, EPA Administrator Gina McCarthy emphasized that states can “pick from a portfolio of options” and “mix and match to get to their goal.” It is evident, however, that EPA’s use of the “outside-the-fence-line” approach was geared more towards increasing the stringency of the rule rather than its flexibility (see general comments on this concern [here](#)).

By adding outside the fence line building blocks and assigning aggressive emissions reduction targets to each, EPA was able to tighten individual state targets substantially. While EPA’s “mix and match” messaging implies otherwise, if the emissions reductions called for from one individual building block are not met, they must be made up through even greater reductions in one or more of the remaining building blocks, or by alternative measures that EPA does not specify (and may not allow). Because most states expressed concerns that at least one, and in many cases all, building blocks are not reasonable or achievable, the EPA’s proposed targets are simply out of the reach of many states. For example:

- EPA’s 6% heat rate improvement goal for all coal-fired generating units ignores that equipment upgrades and maintenance best practices needed to achieve this ambitious goal have already been adopted at many plants. 34 states raised concerns with the achievability of this building block (see examples [here](#)).
- EPA’s goal of a 70% of capacity factor for NGCC plants does not account for the technical, seasonal, and infrastructure challenges that may inhibit this unprecedented level of dispatch from NGCC plants. 35 states raised concerns with the achievability of this building block (see examples [here](#)).
- Among numerous other errors and shortcomings, EPA renewable energy targets mistakenly assume that all states within a particular EPA-defined region share the same average renewable energy potential, when they clearly do not. 20 states raised concerns with the achievability of this building block (see examples [here](#)).
- EPA’s energy efficiency goal of an eventual 1.5% improvement each year ignores that many states have already mature energy efficiency programs in place and that achieving EPA’s target will be extremely difficult under better economic conditions. 17 states raised concerns with the achievability of this building block (see examples [here](#)).

5. The Presence of Mistakes and Errors Within the Rule

States Raising Concern

Reality:

“EPA proposes state goals based on a state-specific analysis of available efficiency gains from each of the four building blocks. Wyoming's state goal as proposed by EPA is based upon clear errors and irrational assumptions...The scope of this proposed rule is unprecedented and requires the utmost diligence in insuring the information used is accurate. If EPA does not use reliable data, then it is acting in an arbitrary and capricious manner. WDEQ urges EPA to perform a thorough quality assurance review of any data that it relies upon.”

-- Wyoming Department of Environmental Quality

In addition to the aforementioned faulty technological assumptions and unachievable timelines, a review of docket filings reveals that EPA’s proposal suffers from numerous outright errors. Specifically, at least 28 states identified technical errors in the underlying assumptions and data upon which EPA’s emissions targets were set (see examples [here](#)). These mistakes range from the minor to the egregious, and span all aspects of the proposal. Often, EPA misidentifies or overstates the capacity of affected facilities. In other instances, state laws and programs related to renewables or energy efficiency are misinterpreted, and in some cases, EPA uses erroneous or inconsistent data in its modeling and analysis. In almost every situation, the errors result in EPA increasing the stringency of the affected state’s target. To cite just one example, EPA’s erroneous use of Kansas’ *capacity-based* renewable portfolio standard to set *generation-based* renewable targets for six states in the South Central region results in a significant overstatement of those states’ targets.

These errors compound fundamentally flawed assumptions upon which the rule was designed and exacerbate the already serious compliance challenges facing states. Perhaps more importantly, the sheer number and collective significance of the errors illustrate why the oversight of utility resource planning should remain a state responsibility. EPA must take the time to fully address and correct these mistakes prior to finalization of the rule.

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6. The Rule’s Accelerated Timeline for Finalization and Implementation

States Raising Concern

Rhetoric:

“There is enormous flexibility in the definition of a state plan, and our ability to look at the timeline for . . . submitting the plans and achieving the reductions.”

– Gina McCarthy, EPA Administrator

Reality:

“Given the amount of attention this proposal has received, it is unrealistic to expect the state to submit a complete plan within EPA’s proposed timeframes. EPA must provide more time, or, at a minimum, provide guidance on what EPA will accept at the plan due date short of a complete and final plan.”

– Wisconsin Department of Natural Resources and Public Service Commission of

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As noted in the official filings of at least 34 states, EPA’s proposed response and compliance schedules are unreasonably short for such a complex rule (see examples [here](#)). Because EPA is taking the unprecedented step of attempting to fundamentally redesign the entire electricity sector, states must be provided review and response time in accordance with the scope and magnitude of EPA’s efforts. Additionally, EPA’s October 28, 2014 proposed Notice of Data Availability (NODA) contemplates significant changes to the regulation, but the Agency allowed less than 35 days for review and comment on the NODA.

EPA also is requiring different compliance schedules for states pursuing individual or regional multi-state implementation plans in an inappropriate effort to force states to adopt the agency’s preferred regional approach. EPA is offering states that choose a regional approach an extension period twice as long as those choosing to go it alone. If left unaltered, states pursuing an individual implementation plan will find it extraordinarily difficult to meet EPA’s unreasonable schedule, which puts these states at risk of EPA attempting to impose federal implementation plans. EPA promised a flexible and cooperative approach, but its proposal falls well short of that goal by making it more difficult for states to go against the Agency’s obvious preferences. The EPA’s compliance schedule for producing implementation plans is so unreasonable that it should be withdrawn in its entirety and replaced with a more realistic timeline.

7. The Achievability of the Rule’s Interim Targets

States Raising Concern

Rhetoric:

“States have flexibility not just in means and method, but in timeline, too. Under our proposal, states have to design plans now, and start reducing so they’re on a trajectory to meet their final goals in 2030.”

— *Gina McCarthy, EPA Administrator*

Reality:

“As proposed, there is very little difference between the interim goal and the final goal . . . Effectively, the EPA has set a 2020 compliance deadline with no appreciable phase-in. The option offered by EPA to over-comply in later years to make up for lack of compliance in the early years is not realistic and may impose unnecessary costs and adverse effects on reliability . . .”

— *Iowa Department of Natural Resources, Iowa Utilities Board, and Iowa Economic Development Authority*

As if the accelerated compliance schedule for implementation plans is not bad enough, EPA’s schedule for achieving interim greenhouse gas emission targets is also unduly burdensome, requiring states to meet interim deadlines in as little as two years. 30 different states filed comments expressing their opposition to this aggressive timeline (see examples [here](#)). While EPA’s final compliance date is 2030, most of the emission reductions would have to occur within a few years, beginning in 2020. Such a compressed compliance schedule would require unreasonably rapid action to EPA’s emissions targets.

This is far too short a timeline for states to put in place legislative and regulatory programs that would drive the types of sweeping changes in the power sector that the EPA is requiring states to make to achieve the steep emission reductions being proposed. For example, EPA seems either oblivious or unconcerned that it will take at a minimum several years to build the new pipeline and other infrastructure needed to deliver the natural gas needed to meet EPA targets for electricity generation from natural gas combined cycle plants.

Moreover, operating on such a compressed timeline makes it less likely states can assure the smooth, safe, and reliable operation of the electric grid. For these and other reasons, EPA should revoke its interim 2020 to 2029 targets.

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8. The Rule’s Use of 2012 as the Baseline Year and the Associated Impact on Early Actors

States Raising Concern

Rhetoric:

“States that are out in front can continue to be there and get rewarded for that and recognized for it . . .”

-- Gina McCarthy,
EPA Administrator

Reality:

“New Jersey’s enormous progress in cutting CO₂ emissions should be recognized by the federal government. Instead, this Proposed Rule would punish our state—and others who have been leaders—for its success. By failing to provide credit for past emission reduction measures, the Proposed Rule would provide a clear and enduring disincentive against early action in the future, absent a federal mandate. It would convey exactly the opposite message that the federal government should be sending to the states and the private sector. Rather than encouraging progress, it would hinder it, as parties would hesitate to act knowing that their progress might be penalized in the future.”

– New Jersey Department of Environmental Protection

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Dozens of states have implemented renewable portfolio standards and energy efficiency programs in part to reduce greenhouse gas emissions. EPA’s inappropriate use of 2012 as the regulation’s baseline year, however, fails to take into account these kinds of early actions to reduce emissions. The use of a single year (instead of a multi-year average) also penalizes numerous states whose emissions were unusually low in 2012 due to market or specific localized circumstances.

Further, while new, additional state renewable or efficiency programs initiated in furtherance of EPA’s rule would be credited toward meeting EPA’s emissions goals, state programs initiated *before* EPA’s 2012 baseline year would not. So instead of receiving deserved credit, states that took early action are being penalized with more stringent emissions baselines and goals. At least 33 different states raised these concerns in their public comments (see examples [here](#)).

9. The Rule's Treatment of Nuclear Generation

States Raising Concern

Rhetoric:

“The EPA believes that since the decisions to construct these [five nuclear] units were made prior to this proposal, it is reasonable to view the incremental cost associated with the CO₂ emission reductions available from completion of these units as zero for purposes of setting states’ CO₂ reduction goals (although the EPA acknowledges that the planning for those units likely included consideration of the possibility of future regulation of CO₂ emissions from EGUs).”

– EPA Proposed Rule

Reality:

“It is important for the EPA to understand that, to date, less than one half of the costs of the new nuclear units in South Carolina have been incurred, so a significant cost remains to support the completion of these units. Further, only the financing costs are currently being paid and the principal will be paid off over the estimated 60 year lifetime of the new nuclear units. There is clearly an incremental cost for these new units that will be added to customer bills to pay for the zero carbon emitting units once they come online.”

– South Carolina Department of Health and Environmental Control

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The EPA’s treatment of existing nuclear plants and those now under construction makes it much more difficult for states with nuclear plants to achieve the targets EPA has established. The EPA assumes, based on nothing more than an EIA forecast, that nearly 6% of the current nuclear fleet is at risk of retirement. It then increases the stringency of state targets by an amount corresponding to 6% of each State’s current nuclear capacity. This crude approach is flawed in many respects, not least of which is that it does not consider individual state or plant-level circumstances. Further, it assumes that the NRC will allow nuclear facilities to continue to operate beyond their licensed lives through relicensing, a process beyond the reach of the EPA’s authority and one that is not without its share of risks and uncertainty. The unexpected shutdown of even a single plant in most states with nuclear facilities could make reaching EPA goals virtually impossible.

EPA also assumes that all under construction nuclear plants will, in fact, be completed and placed into operation. But as history has shown, there are no guarantees. Even EPA concedes that the abandonment of any one of these nuclear projects would make meeting EPA’s mandate much more difficult, and perhaps even impossible. If another state begins construction of a nuclear plant after the rule is finalized, it would be able to include this



generation toward meeting its goal. Thus, once again EPA is arbitrarily penalizing “first-mover” states. At least 24 different states raised these concerns in their public comments (see examples [here](#)).

10. The Rule's Lack of Consideration of Stranded Costs

States Raising Concern

Rhetoric:

“The EPA also believes that timing flexibility in implementing measures provides significant benefits that allow states to develop plans that will help states achieve a number of goals, including: reducing cost, addressing reliability concerns, and addressing concerns about stranded assets.”

– EPA Proposed Rule

Reality:

“The state of Kansas has spent in excess of \$3 billion on environmental compliance projects for our coal-fired generation fleet, and these projects were approved by the EPA under state implementation plan(s). For the EPA to now assert, under its Clean Power Plan, that the generation from Kansas’s coal-fired fleet must be significantly reduced or eliminated results in significant stranded costs to Kansas ratepayers. That is, Kansas ratepayers must continue to pay for coal-fired generation resources (including the recent environmental upgrades) that will either be curtailed or forced to retire early in order to meet the EPA’s overly-aggressive emissions standards as well as pay for the new generation, transmission, and DSM energy efficiency costs required under the Clean Power Plan.”

– Kansas Corporation Commission

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EPA’s proposed rule will compel utilities to shut down coal-fired power plants prematurely. The costs of these stranded assets will be passed on to consumers and businesses, resulting in higher electricity costs. For many facilities, these costs will be on top of the millions of dollars spent to comply with the Mercury and Air Toxics Standard (MATS) and other EPA regulations. The utilities that operate these facilities will be walloped economically if they cannot recover their investments before being obligated to shut down their coal-fired plants. It’s estimated that MATS alone will cause 50 gigawatts of coal-fired generating capacity, 16% of total 2012 coal capacity, to close before 2020. Despite a clear requirement in the CAA that the EPA consider the remaining useful life of power plants when developing regulations, by the EPA’s own admission its proposal will force the premature closure of up to an additional 49 gigawatts of coal capacity. At least 22 different states raised these concerns in their public comments (see examples [here](#)).

Adding insult to injury, the EPA appears to deny credit to states and entities that have since 2012 closed or announced a forthcoming closure of existing coal-fired facilities and invested in other types of generation capacity. A company, for example, that declines to upgrade an existing coal-fired power plant to meet upcoming regulations for criteria or hazardous air



pollutants and instead chooses to convert the plant to natural gas cannot expect to receive any credit because the action, while it may have anticipated the new rule, was not in response to it. Not only is this approach unfair, it undercuts the Agency's goals by acting as a clear disincentive to early action.

11. The Rule’s Goals in Comparison to those Set for New Power Plants

States Raising Concern

Rhetoric:

“The proposed final goals reflect the EPA’s quantification of adjusted state-average emission rates from affected EGUs that could be achieved at reasonable cost by 2030 through implementation of the four building blocks.”

– EPA Proposed Rule

Reality:

EPA’s proposal “compound[s] the problem created by establishing inequitable state carbon emissions goals by setting those goals for some states, including Virginia, at a level well below that which EPA has proposed for new fossil-fired electric generating units as NSPS under §111(b) of the Act. The second paragraph of EPA’s ‘The CAA in a Nutshell: How it Works’ for 2013 says, ‘The law calls for new stationary sources to be built with the best technology, and allows less stringent standards for existing stationary sources.’”

– Virginia Department of Environmental Quality

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In its new rule, the EPA takes an expansive and unprecedented view of Best System of Emissions Reduction to include not just existing sources—*i.e.*, the regulated fossil fuel plants—but practically the *entire electricity sector*, including non-fossil generation and demand response measures, based on nothing more than the thin reed of “interconnectedness.” Apart from the questionable legality of this departure from traditional practice (addressed earlier in this document), this unprecedented assertion of authority is being used by EPA to set emissions standards for the states that could not be met by the individual fossil fuel-fired plants operating within those states, or even by new plants. In other words, EPA would require the collection of *existing* power plants within a state to meet a more stringent emissions standard than *new* fossil fuel power plants, directly contrary to the clear intent of the CAA.

EPA’s own data show that in 19 states, the total emissions rate for the entire electricity sector (including all nuclear and renewable generation) is already more stringent than EPA’s standard of 1,000 pounds of CO₂ per kilowatt hour for a new natural gas plant, and 24 states beat the 1,100 pound standard for a new coal plant. But by essentially treating each state as a single source, EPA is trying to get away with imposing a much greater level of emissions reductions than would be technically feasible if, as the law requires, the focus was on existing fossil plants alone. At least 8 different states raised these concerns in their public comments (see examples [here](#)).

12. The Rule’s Estimation of Plants’ Generation Capacity and Resultant Impact on State Targets

States Raising Concern

Rhetoric:

“The EPA was interested in the relationship of a unit’s total net generation relative to its net generating capacity (i.e., capacity factor) . . . While some units may model actual weather adjusted capacity by the hour/minute, these data are not reported for the fleet. Therefore, the EPA used the nameplate capacity reported for units.”

– EPA Proposed Rule

Reality:

“The EPA states it wanted to use net generating capacity but asserts, incorrectly, that net capacity data was not readily available. Therefore, EPA’s choice to use nameplate capacity for purposes of assessing annual capacity factors is not supported by its referenced material.”

– Florida Public Service Commission

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EPA’s proposed rule assumes that all power plants can run at “nameplate capacity”—the maximum rated output of a generation unit. In reality, however, nameplate capacity is strictly a theoretical value not typically achievable in practice. Actual generation is impacted significantly by temperature, humidity, and numerous other factors, and as a result, summer and winter capabilities in particular are significantly less than nameplate capability.

This results in the inappropriate inflation of state targets, and has the most impact on building block 2 calculations. Specifically, EPA bases state redispatch targets on the assumption that NGCC facilities operate at 70% of *nameplate* capacity, instead of net or seasonal capacity. For example, a comparison presented by the North Carolina Public Utility Commission showed that the use of nameplate capacity rather than seasonal capacity overestimates generation potential by about 9%. While perhaps a relatively minor issue at first glance, similar overestimates multiplied across every state and hundreds of generating facilities would result in a significant inflation of building block 2 potential. More importantly, if applied in practice as proposed in EPA’s building blocks, the use of nameplate capacity to estimate redispatch potential could have reliability implications. For example, according to the Arizona Corporation Commission, EPA’s use of nameplate capacity led to the unrealistic assumption that all Arizona utilities could meet load obligations in the summer through the redispatch of coal-to-gas. At least 16 states raised these concerns in their public comments (see examples [here](#)).

APPENDIX 1: EXCERPTS FROM STATE COMMENTS

This appendix includes representative excerpts from state comments filed for each of the 12 areas of concern summarized in this guide. Emphasis is added unless otherwise noted. Numbers denoting footnotes also have been deleted.

Concern 1: The Legality of the Rule

ATTORNEYS GENERAL FROM 17 STATES:¹⁰ “EPA’s proposal attempts to use the Clean Air Act to override states’ energy policies and impose a national energy and resource-planning policy that picks winners and losers based solely on EPA’s policy choices, forcing states to favor renewable energy sources and demand-reduction measures over fossil fuel-fired electric production. But the Clean Air Act generally and Section 111(d) specifically do not give EPA that breathtakingly broad authority to reorganize states’ economies. ‘Congress . . . does not, one might say, hide elephants in mouseholes.’ . . . Congress did not hide the authority to impose a national energy policy in the ‘mousehole’ of this obscure, little-used provision of the Clean Air Act, which EPA has only invoked five times in 40 years.

“The proposed rule has numerous legal defects, each of which provides an independent basis to invalidate the rule in its entirety.

“Rather than limiting itself to EPA’s narrow mandate of air pollution control, **the proposed rule forces states to abandon their sovereign rights in favor of a national energy consumption policy.** This attempt to federalize areas of energy policy improperly proposes to negate states’ authority to determine that EPA’s guidelines are inconsistent with factors such as consideration of costs, physical impossibility, energy needs, and the ‘remaining useful life of the existing source’.”

ARIZONA CORPORATION COMMISSION: “There are also serious legal issues raised by EPA’s proposal. First, EPA lacks authority to promulgate these broad sweeping regulations under the CAA. EPA is barred from regulating CO₂ under section 111(d) of the CAA because it has already issued power plant standards for hazardous air pollutants under section 112. EPA’s ‘outside the fence’ approach is not a reasonable interpretation of the CAA. No reasonable construction of the CAA gives the EPA authority over generation dispatch, grid reliability, national security and resource portfolio planning. EPA’s interpretation of the CAA is not entitled to deference in light of the regulatory framework that Congress has carefully crafted in this area. The underlying assumptions contained in the building blocks, upon which Arizona’s goals are calculated, are arbitrary and capricious, unlawful and not based upon any reliable evidence. EPA’s Proposed

¹⁰ Attorneys General of Alabama, Florida, Georgia, Indiana, Kansas, Louisiana, Michigan, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Utah, West Virginia, and Wyoming. Available at: <http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23949>.



Carbon Rule is also unlawful because, as applied to Arizona, it is highly prescriptive and gives the state no flexibility to fashion its own plan.”

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT: “The U.S. EPA lacks the authority to regulate existing EGUs pursuant to Section 111(d) of the Clean Air Act (CAA). The U.S. Supreme Court has noted that where a source category is regulated under Section 112 of the CAA, U.S. EPA may not employ Section 111(d) to further restrict emissions from those existing sources. Since existing EGUs are regulated under Section 112 of the CAA, the proposed rule exceeds U.S. EPA’s statutory authority.”

KENTUCKY ATTORNEY GENERAL JACK CONWAY: “In a recent jointly filed lawsuit with eleven other States’ Attorneys General, I made my position clear that EPA does not have the authority to promulgate regulations under CAA 111(d) to limit carbon emissions from existing stationary sources, because EPA has previously regulated these facilities under CAA 112. Even assuming *arguendo* that EPA has authority to impact energy policy decisions under Section 111(d), some state Attorneys General and legal commentators opine that the proposed rule’s attempt to federalize control over state energy policy is inconsistent with the Federal Power Act. It is unreasonable for EPA to propose regulation under Section 111(d) that would allow precisely the type of federal control over state decision-making that Congress denied to the federal government in the context of the Federal Power Act.”

MISSISSIPPI PUBLIC SERVICE COMMISSION: “EPA has not, in fact, provided a model rule or plan for implementation of the Clean Power Plan by each state. And part of the difficulty the MPSC would expect to face in developing any future state plan is related to this decision not to issue a model rule—on which any Federal Implementation Plan (‘FIP’) might be based—that would allow states to assess how their own plans compare. The Commission surmises that this lack of a model rule stems in part from the fact that EPA lacks statutory authority to impose the building blocks (beyond building block one) on sources (and especially on non-sources), and that it would therefore not be possible for EPA to implement a FIP based on all four building blocks . . . There is nothing in Section 111(d) of the Clean Air Act to suggest that it grants EPA such sweeping authority to order states to remake their generation mixes, to redispatch the electric grid, or to enact and fund demand response and energy efficiency programs. It is axiomatic that EPA cannot accomplish indirectly what it cannot order directly.”

NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY: “The Nebraska Department of Environmental Quality (NDEQ) thinks that is disingenuous to require states to undertake measures that the EPA itself may not have the authority to implement. The NDEQ is concerned that the state goals established in the Clean Power Plan rely on measures that go beyond the scope of Environmental Protection Agency (EPA) jurisdiction and state air regulatory programs under the Clean Air Act . . . EPA has not clearly identified its authority to require, mandate, or



otherwise implement and enforce renewable energy standards or demand-side energy efficiency standards, i.e., Building Blocks 3 and 4 of EPA's proposed Clean Power Plan. These building blocks are clearly beyond the fence line of any given electric generating unit. EPA also has not clearly identified for Nebraska where these authorities lie. Therefore, it is unclear under what authority pursuant to the Clean Air Act EPA is using to develop the Best System of Emission Reduction using all of the building blocks.”

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION: “The Department of Environmental Protection has undertaken an extensive analysis of this proposal, found it fundamentally flawed, and respectfully submits that it cannot be redeemed through mere revisions. **These draft rules are incomplete, needlessly complex, and impossible to implement.**”

“As a threshold matter, and as elaborated in the accompanying legal comments, EPA’s Proposed Rule goes well beyond EPA’s jurisdiction for the regulation of emissions from existing electric generating units and instead **seeks oversight and control of essentially every aspect of energy generation, transmission and dispatch, and every aspect of energy usage by businesses and citizens throughout the nation. Simply put, the Proposed Rule is not authorized by the terms of the Clean Air Act.**”

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: “In cases where EPA does have the authority to establish emission guidelines under section 111(d), that authority is limited. EPA can only establish a unit-specific guideline that describes what control technologies have been demonstrated. NCDENR agrees with the Sierra Club when it argued in *Asarco v. EPA* that section 111 of the CAA cannot be applied to a combination of facilities within a plant site or the plant site as a whole. It certainly cannot be expanded to include facilities outside the plant site, or to source categories outside the proposed section 111(d) source category. The plain language of the Act as well as legal precedent precludes EPA and States from implementing building blocks 2, 3, and 4 – all designed to require emission reductions outside of the affected emissions unit.”

SOUTH DAKOTA PUBLIC UTILITY COMMISSION: “EPA’s proposed rules are poorly written and will result in higher costs to South Dakota consumers. The proposed rules rely on flawed assumptions and an illegal, inequitable, and unworkable ‘outside the fence’ approach in setting South Dakota’s emissions goal. The final rule should set the state’s goal using only emission reductions technically achievable through heat rate improvements at existing coal-fired and NGCC plants (Building Block 1), while considering cost impacts.”

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION: “All of this is patently illegal. The first stop on the regulatory odyssey upon which EPA intends to embark will most certainly



be the courts. Almost all significant CAA rules are challenged and this proposed rule is historically consequential - it is destined for litigation . . .”

“Congress has not only declined to give EPA the authority it is seeking to seize, it has enacted laws which actually deny EPA this authority, including the very section of the CAA upon which EPA relies, section 111(d). **Despite that good sense might favor the exercise of restraint, EPA can be expected to plunge forward, subjecting the country, its economy and people to several years of uncertainty before a skeptical Supreme Court may rule.** It appears that EPA is more constrained by political goals than the actual text of the CAA, and the exercise of sound, sensible judgment.”

Concern 2: The Rule’s Impact on Electricity Prices, Jobs and the Economy

ARIZONA CORPORATION COMMISSION: “Arizona utilities would need to construct or acquire other non-coal resources in order to reliably serve their loads. Based upon an analysis completed by the Arizona utilities, they would need to acquire over 2,000 MW of additional generation capacity at a cost of over \$2 billion by 2020 to meet their firm load obligations if they stopped use of all coal units. In addition, **the fuel and purchase power costs would increase by over \$17 billion through 2030.**”

FLORIDA PUBLIC SERVICE COMMISSION: “[T]he Commission is confident that if EPA’s proposed BSER is not revised, the stringent emission performance requirements will require substantial compliance costs for Florida. These costs include compliance costs assumed in the Building Blocks and additional costs such as the building of new natural gas pipelines, the building of new generation, the possible improvements and/or building of new transmission lines, and the cost of stranded assets resulting from the premature retirement of existing baseload generation. Therefore, any estimate of compliance costs may be grossly understated at this time . . .”

“Preliminary estimates from the Florida Electric Power Coordinating Group, Environmental Committee, support the conclusion that EPA may have understated the potential range in its estimated direct and indirect costs. **These preliminary estimates show that average statewide retail rates could increase 25 to 50 percent by 2030 as a result of the Proposed Rule.**”

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT: “Indiana is concerned that the proposed rules will lead to Hoosiers, particularly those in low income socioeconomic brackets, losing heat and power because they will not be able to pay for the rising utility costs. Indiana is also concerned that U.S. businesses will be unable to compete in a global economy due to the



higher electricity rates, and that worldwide greenhouse gas emissions may actually increase due to the relocation of manufacturing operations from the U.S. to other countries with less restrictive regulations.”

KANSAS CORPORATION COMMISSION: “The KCC estimates a base case that the EPA’s CPP as proposed would cost the state of Kansas \$8.75 billion with a possible range of costs between \$5 billion and \$15 billion. The corresponding increase in rates is between 10% and 30% over 13 years.”

KENTUCKY ENERGY AND ENVIRONMENT CABINET: “Independently, the Cabinet determined through its own econometric modeling that the six percent change in electricity prices alone estimated by EPA would cause a net loss in the United States of 439,000 full time jobs, over half (236,000) of which would come from energy intensive manufacturing sectors . . . Cabinet modeling suggests that a ten percent increase in the real price of electricity, which could be intensified by the proposed rule, would, on average, be associated with a 1.1 percent reduction in state GDP (SGDP). This would result in a loss of almost \$2 billion to the state of Kentucky, which represents a loss of over half of its automotive-related foreign exports, or loss of eight percent of its total foreign exports.”

MISSISSIPPI PUBLIC SERVICE COMMISSION: “As proposed, the Clean Power Plan offers Mississippi no practical degree of flexibility. Rather, each building block would impose a significant and costly burden on Mississippi electricity consumers . . . There are a variety of ways to estimate costs of the Clean Power Plan. Using calculations from the Mississippi Energy Institute, the proposed rule is estimated to cost Mississippi ratepayers **\$14 billion by 2030**, not including fuel costs. These costs are primarily caused by the need for increased renewable energy required to meet the emission target. As the price of electricity increases, the Commission is also concerned about impacts on industry and job creation.”

OHIO PUBLIC UTILITY COMMISSIONS: “The PUCO’s modeling demonstrates that the switch from economic dispatch to environmental dispatch, as a result of building block 2, would cause wholesale market energy prices to be **39 percent higher in calendar year 2025 than prices would otherwise be without building block 2** . . . Compliance with building block 2 would cost Ohioans approximately \$2.5 billion (in nominal dollars) more for electricity in 2025 alone . . . Looking at the bigger picture, when considering economic impacts beyond just the price of electricity, the CPP would impose more strain on Ohioans as the cost of goods and services would increase as businesses are forced to pass on higher electricity costs. Given the combination of higher direct electricity costs and the fact that these costs would flow to every part of Ohio’s economy, Ohioans would undoubtedly face financial hardship as a result of the CPP’s sweeping reforms if the rule is finalized in its proposed form.”



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY: “The carbon emission limits for Texas . . . will result in significantly increased costs for Texas electricity customers. Some estimates of these increased costs include:

- \$10-\$15 billion total annual compliance costs by 2030;
- total electricity-related costs in Texas alone could be in excess of \$10 billion;
- increased energy costs for consumers in ERCOT of up to 20% in 2020, which does not include additional costs of transmission upgrades, procurement of additional ancillary services, energy efficiency investments, capital costs of new capacity, and other costs associated with the retirement or decreased operation of coal-fired capacity in ERCOT.
- \$3 billion per year to comply with the energy efficiency mandate alone.”

UTAH GOVERNOR GARY HERBERT: “By discouraging the further development and continued utilization of one of our nation’s most abundant and affordable energy resources, this proposed rule would reduce the affordability and security of our fuel supply. The proposal has the potential to significantly increase electricity rates, which will negatively impact Utah’s industrial, commercial, and residential consumers. National Economic Research Associates (NERA) has estimated that this regulation will cost between forty one and seventy three billion dollars a year. Fourteen states, including Utah, are estimated to incur peak electricity price increases of more than twenty percent. Impacts will be especially severe for economically disadvantaged and rural consumers.”

VIRGINIA STATE CORPORATION COMMISSION: “SCC Staff analyses of utility planning data indicate that, using conservative assumptions, the incremental cost of compliance for one utility alone (Dominion Virginia Power) would likely be between \$5.5 billion and \$6.0 billion on a net present value basis.”

WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND PUBLIC SERVICE COMMISSION: “As detailed in the attachment, PSCW estimates that the costs to comply with EPA’s proposal over the compliance period range from \$3.3 to 13.4 billion . . . As highlighted in a previous letter to you from Governor Walker, we are very concerned the costs of EPA’s proposal will threaten our most reliable energy source and damage our ability to provide affordable energy to our citizens and manufacturing-based economy.”

WYOMING PUBLIC SERVICE COMMISSION: “By the time we get to the 2020 closures, however, there would be serious threats to regional reliability and a financial catastrophe for ratepayers. As we explained in our December 16, 2013, letter to Assistant Administrator McCabe, in 2020 the stranded investment for Dave Johnston will be \$393,632,687; for Naughton, \$326,213,892;



for Jim Bridger, \$524,351,740; for Wyodak, \$248,714,883. In addition to the amounts listed at that time, Jim Bridger is undergoing investments in regional haze compliance which will add about \$800 million of invested capital. Like the Laramie River Station, these investments should have a depreciable life of at least 20 years. The four plants are system assets, so Wyoming ratepayers would bear about 15.7% of those amounts. Since we believe such closures would have a wide economic impact and be accompanied by a broad impact on the coal industry, we also anticipate that there will be fewer ratepayers to shoulder these burdens, sending rates higher than the 15.7% would suggest.”

Concern 3: The Rule’s Impact on Electricity Reliability

ARIZONA CORPORATION COMMISSION: “EPA’s Proposed Carbon Rule will seriously undermine the reliability of electric service.”

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY AND PUBLIC SERVICE COMMISSION: “The 2030 Arkansas goal, which is the sixth most stringent in the United States, is technically flawed and is unattainable under the contemplated time frame. Further, as detailed below in comments regarding establishment of the baseline, the actual emissions reductions needed to meet the goal will exceed the apparent 44% level. Without correction, these goals may threaten to cause electric service disruptions in Arkansas and may also affect electricity service and cost in other states.”

KANSAS CORPORATION COMMISSION: “To adequately demonstrate that its proposed best system of emission reduction is feasible, EPA must demonstrate that, in achieving a state’s emissions limit goal, the state’s electric grid stays reliable at a reasonable cost. **EPA has not demonstrated the reliability of the electric grid nor has it accurately estimated the expense of ensuring the reliability of the grid.**”

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY: “Michigan has serious concerns about the application of Building Block 2. The assumption of NGCC dispatch at 70 percent could lead to reliability issues if implemented. Michigan has the most natural gas storage in the nation, but during the winter of 2013-2014 there were questions of being able to maintain an adequate supply of natural gas and price spikes in the state. When resources are used, they must be replenished and this is limited by pipeline transmission capacity. If Michigan with its large storage capacity was near a low point, this portends worse for other areas of the country.”

MISSOURI PUBLIC SERVICE COMMISSION: “Replacing economical dispatch with 70 percent NGCC could result in additional costs and could affect the reliability of the national electric grid. SPP



suggests a comprehensive and independent analysis of the impacts of the proposed rules on the reliability of the nation's electric grid. The MoPSC supports this recommendation...In addition, natural gas pipelines serving Missouri were designed for winter heating load. They do not have the capacity to serve winter natural gas heating load while simultaneously providing natural gas capacity to off-set displaced coal-fired generation."

OHIO PUBLIC UTILITY COMMISSIONS: "Again, US EPA, through the CPP, takes an approach whereby **it seeks to act in the energy industry without the requisite knowledge or understanding of the plan's far-reaching impacts.** The NERC Reliability Study highlights that the risks to reliability are legitimate. Reliability of the electric grid cannot be compromised, as the health of this nation's economy and populous depends on the delivery of reliable energy. Based upon the NERC Reliability Study, it appears that the CPP and its ambitious implementation timeframe could inflict serious harm by jeopardizing reliability."

VIRGINIA CORPORATION COMMISSION: "The magnitude of what the Proposed Regulation requires Virginia (and the nation) to achieve by 2020 also raises obvious reliability concerns. Nationwide, EPA projects that the Proposed Regulation will, if not amended, cause 65,000 MW of fossil-fuel generation to retire by 2020. The effect on the national power systems of adding and removing significant infrastructure in a short period of time, as the Proposed Regulation would require in Virginia and throughout the nation, must be taken seriously.

"Indeed, Virginia does not yet have in place the infrastructure necessary to permit generation retirements soon required by other EPA rules issued years before the Proposed Regulation. Additional near-term generator retirements caused by the Proposed Regulation will compound the existing, unresolved reliability concerns in the Commonwealth.

"Virginia SCC Staff's analysis of EPA's data and Dominion's IRP data both indicate that the Mandatory Goals for Virginia, as proposed, would require a substantial amount of unplanned new generation and unplanned retirements of existing generation. The timing and magnitude of these transitions on Virginia raise resource adequacy and reliability concerns."

WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND PUBLIC SERVICE COMMISSION: "EPA has not adequately performed sufficient analyses to demonstrate that its proposal will ensure reliability of the grid in Wisconsin. We are particularly concerned that, in the absence of a robust coal-fired fleet, natural gas plants currently used for peaking may not be able to support the electric load."



Concern 4: The Rule’s Technological Assumptions and Associated Impact on Compliance Flexibility and Achievability—General Building Block Achievability and Lack of Flexibility

ALASKA ENVIRONMENTAL AGENCIES: “The Proposed Rule suggests compliance mechanisms that have limited, if any, application in Alaska and presupposes an energy market that does not exist here. Application of the Proposed Rule to Alaska, notwithstanding the physical impossibility of implementing the building blocks, would result in extraordinary costs, severely impair the reliability of electric service, and aggravate air quality concerns in the Fairbanks area. Therefore, our state should be exempted from the Proposed Rule.”

NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION: “Largely because the proposal does not recognize the impact of the changes that New York has already made to reduce emissions, the CPP also does not reflect State-specific constraints and the operational realities of New York’s electric system. As a result, the CPP poses difficult challenges for New York in achieving the target CO₂ emission rate required by EPA’s proposal. These challenges arise, in part, because the State’s prior efforts in reducing emissions have exhausted almost all of the emission reduction potential of one of the building blocks. Thus, while we understand that EPA is not requiring that the State implement each building block at the level contemplated in the proposal, New York has less flexibility and fewer strategies to deploy in meeting its target than many other states.”

NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY: “We are concerned that the Building Blocks that contain inaccurate assumptions and unrealistic expectations will result in emission goals that may be unattainable regardless of the emission reduction strategies employed . . . The EPA has said the Building Blocks included in the proposal are guidelines, not mandatory requirements, and that states are free to use any emission reduction strategies they wish, so long as their final emission reduction goals are met. However, a goal that has been established with flawed assumptions results in a rule that is inflexible and overly burdensome. “

SOUTH DAKOTA PUBLIC UTILITY COMMISSION: “In the proposed rule, EPA suggests that ‘[a] state may demonstrate during the comment period that application of one of the building blocks to that state would not be expected to produce the level of emission reduction quantified by EPA because implementation of the building block at the levels envisioned by EPA was technically infeasible, or because the costs of doing so were significantly higher than projected by EPA.’ EPA then declares it ‘expects that, for any particular state, even if the application of the measures in one building block to that state would not produce the level of emission reductions reflected in EPA’s quantification for that state, the state will be able to reasonably implement measures in other of the building blocks more stringently, so that the state would still be able to achieve the proposed goal.’ This position lacks reason and only



points to EPA’s misguided attempt to base the BSER on achievement of a total reduction in emissions rather than an accurate technical analysis.”

“Perhaps this position does not apply to South Dakota because we argue in these comments that *all* of the building blocks proposed for South Dakota are either technically infeasible or forecasted to be a higher cost than EPA projects, however, **state goals as determined by BSER in the final rules should be based on sound technical analysis, not a sliding scale in order to reach a political target** [emphasis in original].”

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY: “Unfortunately, the Proposed Emission Guidelines negate the flexibility given under section 111(d) and 40 CFR 60.24. EPA claims such flexibility is already provided to states because they ‘are free to specify requirements for individual EGUs that are appropriate’ to take those factors such as the remaining useful life into account. ‘Therefore,’ according to EPA, ‘no relief for individual facilities would be needed.’ **That flexibility, however, is more apparent than real**, because the achievement of state goals is a zero-sum game: If a state regulates certain plants less stringently, it must then make up the shortfall in reaching its target by over-controlling other sources. In some situations it might not be possible to find sufficient over-control, in which case the state could not provide the case-by-case relief section 111(d) intended.”

WYOMING PUBLIC SERVICE COMMISSION: “We have heard repeated suggestions that by cooperating with other states, costs and burdens could be shared and ameliorated. We reply that other states are not in the altruism business, and we do not expect them to be. In the absence of a fair and reasonable goal, there can and will be no cooperation . . . We have heard repeated suggestions that Wyoming will have the flexibility to create solutions for the challenge of the EPA goal. We reply that flexibility will be of little use if the only building blocks presently identified pose an insuperable obstacle. After careful and, in some respects, exhaustive review of the documentation for EPA’s goal, we have seen nothing that gives us confidence or even hope that goal can be met.”

Concern 4(a): Six Percent Heat Rate Improvements at Coal-Fired Power Plants

ARIZONA CORPORATION COMMISSION: “Building Block 1 is unusable by Arizona utilities. It assumes all plants can achieve a national average efficiency improvement of 6 percent. Most of the generating plants owned by a load serving entity (‘LSE’) have already made these improvements in Arizona and are operating at efficient levels.”



FLORIDA PUBLIC SERVICE COMMISSION: “The EPA has not adequately demonstrated the feasibility of the proposed emission requirements for Florida under Building Block 1. This is supported in part by a recent communication by Sargent & Lundy, LLC, which prepared a study on heat rate improvement that was relied on by EPA in its technical support documentation. Sargent & Lundy, LLC, states that its 2009 report on heat rate improvements ‘did not conclude that any individual coal-fired EGU or aggregation of coal-fired EGUs can achieve six percent heat rate improvement or any broad target, as estimated by EPA.’ Moreover, Sargent & Lundy, LLC, notes that the feasibility of heat rate improvements at an individual generating unit are limited by ‘a number of factors, including plant design, previous equipment upgrades, and each plant’s operational restrictions.’”

STATE OF ILLINOIS: “Nearly all Illinois affected sources have indicated that if a 6% fuel savings was possible in the manner USEPA suggests, any such modifications to plant equipment and operation would have already been made as an economic priority . . .’

“Illinois has mandated significant reductions in emissions of sulfur dioxide, nitrogen oxides, and mercury in rules, such as the Illinois mercury rule, Clean Air Interstate Rule, and multi-pollution reduction requirements contained in these rules. The additional pollution control equipment required by such rules makes heat rate improvements of 6% more difficult due to the parasitic load. “

“Further, there are units in Illinois that have installed pollution control equipment since the baseline year of 2012, with more controls either under construction or on the way. In at least one case, an affected source owner has noted the loss of nearly 10% of its net output since 2012 due to the parasitic load. It appears unrealistic to assume that this unit, and any like it, could achieve a cumulative heat rate improvement of around 16% over the base year.”

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY: “Efficiency gains, unlike emission reductions, cannot be continually ratcheted down beyond a certain point. As Einstein said, ‘Energy can neither be created nor destroyed . . .’ **The USEPA proposal in Building Block 1 relies on the assumption that energy will be created by regulation, which may be a noteworthy and unique goal, but that does not make it physically possible.** The goal for Building Block 1 should be reduced to a more realistic and attainable level.”

MISSOURI PUBLIC SERVICE COMMISSION: “In response to MoPSC questions, Missouri’s investor-owned electric utilities (IOUs) and the Association of Missouri Electric Cooperatives, Inc. (AMEC) indicate that the six percent power plant efficiency is not achievable in part because investments in heat rate efficiency have already been made. Missouri’s IOUs estimate that a further heat rate improvement of 1-1.73 percent may be achievable.”



NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY: “Heat rate improvements of 4-6% are not achievable at Nebraska coal-fired power plants. Nebraska utilities are required by law to deliver least-cost, reliable electricity; as such, they have already implemented most if not all achievable heat rate improvements at existing facilities. Any remaining improvements will be far more modest than the EPA's 4-6%, and these gains will likely be offset by efficiency losses resulting from additional controls needed to comply with the Mercury Air Toxics Standards (MATS), Regional Haze Rule, the Cross-State Air Pollution Rule (CSAPR), and the sulfur dioxide (SO₂) National Ambient Air Quality Standards (NAAQS). Coal-fired power plants are also facing more frequent ramping, cycling, and startup/shutdown events resulting from greater use of natural gas and renewable generation facilities. All of these factors lower the efficiency of coal-fired power plants and increase their emission rate, putting the EPA's 4-6% heat rate improvement even further out of reach.”

UTAH GOVERNOR GARY HERBERT: “Environmental controls such as selective catalytic reduction (SCR) actually reduce plant efficiency by creating additional parasitic load. Utah’s affected EGUs already have environmental controls that reduce their efficiency, and face additional controls under current and future environmental requirements, including PM 2.5, mercury and ozone rules. It is important that proposed power plant improvements for carbon dioxide emissions do not conflict with or penalize power plants for compliance with other environmental regulations. *EPA should recognize that existing and pending environmental controls can decrease coal unit efficiency and should adjust targets to reflect this reality . . .* Redispatching power from coal to natural gas will create heat-rate inefficiencies at coal-fired power plants, thus reversing other heat-rate improvements. ‘Moving’ units between operating points leads to additional heat rate penalties. In its assumptions on the carbon reductions possible from redispatch, the EPA has not accounted for the heat rate penalties created by moving to more natural gas generation. *The EPA should accurately account for heat rate penalties associated with the redispatch of NGCC ahead of coal [emphasis in original].*”

4(b): Redispatch to Natural Gas Minimum Capacity Factor of 70%

ARIZONA CORPORATION COMMISSION: “EPA wrongly assumes that all of the energy produced in Arizona is available for use within the state to offset higher CO₂ emitting EGUs. In reality, much of this power is delivered outside of the state to other loads. This is one of the fatal flaws in EPA’s application of Building Block 2 that results in substantially over stating the amount of coal and oil/gas steam generation that can be displaced by the NGCC generation in Arizona. These errors result in a goal for Arizona that is unjustified. It also deprives Arizona of the flexibility EPA purports to provide to the states in implementing the Proposed Carbon Rule.”

COLORADO DEPARTMENT OF PUBLIC HEALTH: “Second, 70% re-dispatch may be overly ambitious and not be technically feasible. The growth of natural gas capacity has been



necessitated in part by the growth of renewable energy. Many existing turbines operate in standby mode to backup intermittent renewable energy sources when the wind dies down, or the sun is obscured. These turbines are critical to electric reliability. Many turbines were never designed to operate continuously under load, as proposed in EPA’s rule. This directly affects the remaining useful life of those existing turbines.”

MISSOURI DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: “There is a concern about sufficient natural gas pipeline capacity to accommodate this increase in utilization and being able to obtain firm commitments from natural gas suppliers, especially during the winter months when many residential and commercial buildings must use natural gas for heating purposes. The dispatch order for natural gas pipelines prioritizes residential heating, then industry usage, and electricity generation is typically last. If there is a pipeline capacity shortage, electricity generation is usually the first to be cut off . . . In addition, electricity transmission constraints **could** occur as a result of increasing output from units not originally intended to generate electricity at these levels.”

NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY: “In the proposal, EPA calls for greater use of existing natural gas combined-cycle power plants in order to reduce reliance on higher-emitting coal facilities. Specifically, the EPA states that it is feasible for states to increase their annual utilization rate of combined-cycle facilities to at least 70%, based on a nationwide survey that found high availability of combined-cycle plants, consistent utilization rates of 70% for some plants, and utilization rates over 70% for a small number of plants. However, Nebraska does not have adequate natural gas supplies or pipeline infrastructure to sustain a 70% utilization rate of existing natural gas combined-cycle plants, particularly during colder months, and the time and resources required to remedy these issues may make Building Block 2 unattainable under the compliance timeline of the proposed Clean Power Plan.”

NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION: “[A]s explained in more detail below, Building Block Two’s anticipated level of redispatch to existing NGCC plants is unattainable given reliability requirements that necessitate the operation of oil/gas steam units in New York City and Long Island, as well as other factors. Generation owners are subject to market and reliability rules that are approved by the Federal Energy Regulatory Commission (FERC). The consequence of these FERC rules is that redispatch to NGCC units from other fossil fuel units, especially oil/gas steam units, is limited by an electric transmission and/or a gas supply constraint. ***As a result, it is virtually impossible for New York to achieve the 70% capacity utilization assumed by EPA in Building Block Two.***”

SOUTH DAKOTA PUBLIC UTILITY COMMISSION: “Despite concluding ‘that increments of generation are ***to some extent*** interchangeable’ [emphasis added] in the proposed rule,¹⁰ EPA’s Building Block 2 assumes that all increments of generation within a state are fully

interchangeable and that security-constrained economic dispatch (SCED) is prevalent throughout the bulk electric system. This is not the case. In South Dakota, increments of generation between BSP and DCS are not interchangeable for the reasons stated above. The two plants operate in separate dispatch areas, serve independent loads and different purposes, and will operate in different electricity markets. In attempting to achieve EPA's proposed goal, increasing generation from DCS would not result in a decrease at BSP. ***Therefore, the application of Building Block 2 in South Dakota is not technically feasible, and EPA should not include it in determining the state's goal*** [emphasis in original]."

UTAH GOVERNOR GARY HERBERT: "The EPA's assumptions for redispatching power from coal to natural gas power plants are problematic. The EPA assumes that every natural gas combined-cycle power plant could operate at seventy percent capacity although only ten percent of these power plants operated at that level in 2012 during a time of historically low natural gas prices. Utilities add new resources as needed to meet load. The EPA's redispatch assumptions fail to properly account for the fact that recently-added NGCC facilities were constructed to meet projected load growth, rather than to serve as additional available capacity. There is little surplus capacity to reduce coal generation when growth projections are taken into account. The EPA should use a lower targeted capacity factor (i.e., <70%) in developing block two targets to account for anticipated load growth."

4(c): Renewable Generation

CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION: "In establishing aggressive RPS policies, Connecticut, as did other New England states, considered the potential for the market to fulfill the demand created by the state policy, and did not anticipate siting all stimulated renewable energy within its borders; to do so would be to ignore the benefits and realities of regional transmission. Accordingly, EPA's proposal to rely on state RPS goals to yield in-state renewable generation targets ignores the regional interdependency implied in a given state's RPS target. **Connecticut did not intend, and technically cannot, meet its RPS requirements exclusively through in-state generation.**"

FLORIDA PUBLIC SERVICE COMMISSION: "The EPA's adoption of North Carolina's renewable energy and energy efficiency portfolio standard (REPS) for Florida does not realistically reflect the available renewable resources or policy framework in Florida. For example, Florida lacks viable wind resources and has limited biomass opportunities, given competing industrial use of biomass resources. Additionally, baseload solar generation has yet to be a proven commercially available option in Florida."



MAINE PUBLIC UTILITY COMMISSION: “When it established the renewable generation goals for each state EPA considered all forms of renewable energy addressed by any state RPS. For Maine, the EPA attributes the total RPS standard of 40 percent, which includes existing hydro generation as well as wind, biomass, and all other renewables as defined in Maine statute. EPA has not, however, carried the same inclusive approach through to compliance with the target emissions rate as calculated. Specifically, although existing biomass and hydropower resources are included in establishing the regional RPS average against which each state will be measured, the states may not count the MWh generated from existing hydropower in the compliance determination nor all biomass . . . The EPA should correct this error by including existing hydropower and biomass in countable state compliance generation, or by eliminating existing hydropower (and non-qualifying biomass) from states' RPS standards when establishing the regional average under building block 3. With either correction, the RPS-based approach to standard-setting would provide a more accurate indicator of the ability of states to develop renewable energy as a means of reducing carbon dioxide emissions during the compliance period.”

NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION: “[B]ecause it relies on Northeastern states’ relatively ambitious renewable energy policy targets, Building Block Three sets an extremely challenging goal for the amount of renewable energy generation assumed to be achievable in New York. This difficulty is exacerbated by EPA’s disallowance of existing hydroelectric power to meet EPA’s target even though it has included existing hydroelectric power in establishing the State’s emission reduction target.

“While the State understands EPA’s proposal does not require states to implement each particular building block at the assumed levels, this apparent flexibility is limited in practice for a state like New York. That is, EPA’s proposal offers a state flexibility to deviate from a particular building block only to the extent emission reductions may be made up through other building blocks or other means. Because of the ambitious level of EPA’s proposed target and the fact the State has already achieved substantial emission reductions using the same strategies EPA incorporates in the building blocks, such ‘flexibility’ is in reality limited.”

HAWAII DEPARTMENT OF HEALTH: “As reported on Page 1 of the ‘Alternative RE Approach’ TSD, ‘the EPA developed an alternative RE approach that is based on the technical and market potential of RE by state.’ . . . For Hawaii and Alaska, the alternative RE approach is calculated from the difference between RE generation in 2002 and 2012...For Hawaii, this proposed alternative RE approach is problematic as we experienced anomalously high exponential growth during the period between 2002 and 2012. The fixed growth does not account for the increasing technical and economic challenges that arise as more RE is added to the electrical grid...Neither the ‘Alternative RE Approach’ nor ‘GHG Abatement Measures’ TSDs address the potential uncertainty associated with basing annual growth factors for 2020 to 2030 on the difference between 2002 and 2012 RE generation. Therefore, the application of EPA’s approach for estimating potential RE growth is insufficiently justified.”



4(d): 1.5% Annual Demand Reductions From Energy Efficiency Programs

ARIZONA CORPORATION COMMISSION: “The ACC believes the EPA’s current approach to EE penalizes Arizona and other states that are leaders in EE. While Arizona historically has achieved 1.5 percent per year, the ACC does not believe continued performance at this level through 2030, as assumed by EPA, is a reasonable expectation. The ACC believes EE savings become more difficult to sustain as program lives increase. As EE and DSM programs age, there are fewer and fewer cost-effective and impactful measures to be utilized, thus leaving only increasingly expensive incremental EE measures. Given that Arizona has already implemented many of the ‘easy to obtain’ measures, Arizona utilities are left with the increasingly difficult task of getting consumers to invest in higher priced EE measures that offer lower short-term returns.”

FLORIDA PUBLIC SERVICE COMMISSION: “If EPA continues to include energy efficiency as a component of its BSER, it should modify Florida’s energy efficiency requirement to reflect Florida-specific realities. The EPA’s proposed ten percent reduction in net retail electric sales as a result of Building Block 4 is unreasonable, in terms of both proposed cost and achievability, based on Florida’s actual historic data. In over 30 years of offering demand-side management and energy efficiency programs, the FEECA utilities have reduced winter peak demand by an estimated 6,465 MW and reduced annual energy consumption by an estimated 8,937 GWh . . . Additional MWh savings are becoming increasingly difficult because federal and state energy efficiency standards and building codes have become more stringent, leaving less energy savings potential from utility or other third party actions. Setting an emission performance requirement without considering the Florida-specific technical or achievable potential or the cost-effectiveness of the necessary programs to achieve the requirement is contrary to Florida Statutes and the CAA.”

MISSOURI PUBLIC SERVICE COMMISSION: “The most recent IOU integrated resource plans and potential studies assert that the EPA’s assumption that a 1.5 percent annual incremental savings rate is unattainable unless Missouri IOUs can meet the maximum achievable potential analysis, which by definition, is the hypothetical upper limit of achievable potential; while MEEIA is measured relative to realistic achievable potential, which establishes a realistic target for demand-side savings that a utility can expect to achieve. AMEC expresses the same concerns noting that in rural areas, energy programs have never achieved a cumulative impact of over 1 percent on an annual basis.”

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: “EPA has made an error in the assumption that EE savings can keep growing at the same rate (1.5% of retail



sales) for years into the future. The type of EE measures that have been implemented to date and those that are likely to be pursued in the future will be different. Beyond energy efficiency lighting measures and other 'low hanging fruits' which North Carolina has implemented in the recent past, future EE savings will need to come from costly equipment upgrades and replacements and consumer behavior modification programs. The cost and outcome of such measures is unknown and should not be assumed to be easily implementable or achievable."

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION: "DEP questions whether the EPA's assumption of the incremental savings rate of 1.5 percent per year is sustainable on an ongoing basis as shown in the recently published study, 'U.S. Energy Efficiency Potential Through 2035' by EPRI. The study indicates an achievable range of annual incremental electricity savings from EE measures to be in the range of 0.5 to 0.7 percent, less than half of EPA's estimated savings."

SOUTH DAKOTA PUBLIC UTILITY COMMISSION: "Even if the assumption is made that South Dakota can enact a law that sets an enforceable energy efficiency standard at 1.5 percent of retail electricity sales, there is no guarantee that utilities will be able to meet such a standard. In fact, data provided to SD PUC by a number of utilities indicates that achieving 1.5 percent annual energy efficiency savings is not economically feasible. With well-funded programs, the majority of the utilities believe the highest potential for energy efficiency savings is near 0.7 percent of retail electric sales. One utility stated that achieving energy savings of 1.5 percent annually would require its energy efficiency program budget to increase 20 times the current level and nearly half of its customers would have to participate every year to sustain the 1.5 percent annual energy savings. Another utility identified that attempting to reach a 1.5 percent annual energy efficiency target would cost five to six times its current spending levels."

WYOMING PUBLIC SERVICE COMMISSION: "There is also nothing in this data to support a final rate of 1.5%, or to support EPA's view that a rate of 1.5% first year savings can be sustained. The 1.5% becomes even more problematic when considered in light of EPA's intended results for Wyoming's economic base. It is also speculative in view of the fact that the majority of expected savings will be in lighting (see discussion below), and the rate lighting savings will be declining. The change from historical incandescent lighting technology to more efficient incandescent lights and to CFL has already been largely accomplished now that federal standards have been implemented. The savings resulting from a transition to LED bulbs from CFL bulbs are far less dramatic."

"We understand that part of EPA's intention is to challenge states to higher levels of performance, but it is one thing to present a challenge, and another thing entirely to set a standard which no one can reasonably expect to be accomplished. An annual increment of .1% and a final rate of .75% would be a challenge. An annual increment of .2% with a final rate of 1.5% is a non-starter."



Concern 5: The Presence of Mistakes and Errors Within the Rule

ARIZONA CORPORATION COMMISSION: “With respect to the goal of 10 percent in 2020, which was used for Arizona in calculating the average goal for the Western region, EPA’s assumptions contain two errors. First, this goal, taken from the ACC’s Renewable Energy Standard Tariff (‘REST’) rules, does not apply to all load in Arizona. The REST is applicable to utilities under the jurisdiction of the ACC. This only accounts for about 60 percent of the load in Arizona. In addition, of the 10 percent goal for 2020 in the ACC’s rules, 30 percent must come from distributed generation, which the EPA has not included in its goal calculations. EPA should adjust the goal used for Arizona down to 7 percent to account for these exclusions. Similar adjustments for other states may need to be made.”

FLORIDA PUBLIC SERVICE COMMISSION: “The FPSC contends that EPA has overestimated the assumption for potential renewable energy generation for its southeast region by misinterpreting North Carolina’s REPS [Renewable Energy Portfolio Standard]. As a part of North Carolina’s REPS, the state’s investor-owned utilities are allowed to utilize energy efficiency programs to achieve up to 25 percent of the annual renewable goal increasing to a maximum of 40 percent in 2021. Additionally, North Carolina’s REPS allows municipal and co-operative utilities to use energy efficiency programs to achieve all of their annual renewable goals. **By using North Carolina’s REPS as a component of the BSER, EPA has double-counted the use of energy efficiency, given the interaction between Building Blocks 3 and 4.**”

IOWA ENVIRONMENTAL AGENCIES: “For some states, EPA’s alternative approach results in increases in renewable energy generation that exceed the total amount of all electricity generation reported in that state in 2012. This is not plausible, and if the alternative method is used in the final rule, the method should be modified so this result is not possible.”

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY: “MDEQ identified an error in the data used to calculate Mississippi’s 2012 baseline emission rate. EPA identified a 150 MW NGCC believed to be under construction and included its projected emissions in the goal computation table, **MDEQ has been unable to identify this unit and is unsure of its existence**; therefore, we believe its inclusion to be in error. Also, EPA included emissions from the Kemper Integrated Gasification Combined Cycle (IGCC) plant as ‘other emissions’ and ‘other generation’ in the goal computation table. Although this plant satisfies the definition of an existing affected source, the plant was not operational in the proposed 2012 baseline period; therefore, this plant provides no credible emissions or operational data towards establishing standards for existing units. We recommend these units be removed from the goal computation table.”



LOUISIANA PUBLIC SERVICE COMMISSION: “The LPSC found numerous instances of incorrect data and assumptions, as further detailed below. **The LPSC submits that the errors in EPA’s modeling and analysis are further proof that states are in the best position to oversee utility resource planning.** The LPSC has worked closely with LDEQ, in addition to other Louisiana stakeholders, in reviewing the baseline information included in the EPA technical support documents. This collective review has identified several data deficiencies that were identified by LDEQ in their initial comments.”

MONTANA PUBLIC SERVICE COMMISSIONER: “**The second building block of the EPA simply adds error upon error.** The EPA assumes that this [coal-fired] facility, Big Stone, could be substantially replaced with natural gas-fired electricity generated at the Deer Creek generating station hundreds of miles away. There is one obvious problem with this. The plants are owned by different people, they didn't participate in the same markets together, and there are no existing transmission rights that tie the two plants together and to consumers who consume power from those power plants . . . Second, as a practical matter, the reduction that EPA assumes relative to Big Stone would result in the plant operating at 23 percent of its capacity. Its minimum run level is 40 percent. **This is a point where engineering simply runs up against the reality of the EPA's proposal.**”

NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION: “Since existing hydroelectric generating sources are not eligible for compliance purposes, the calculation of the renewable energy portion of Building Block Three for the northeast is technically incorrect. To make the technical correction for renewable energy for the northeast region, EPA can reduce each state’s effective renewable energy target level to subtract out the amount of existing hydro that is accounted for in each state’s RPS goal . . . If EPA makes these necessary adjustments across the northeast region, the renewable target for the states in the Northeast region would decrease from 25% to 18%.”

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: “In reviewing the spreadsheet and the inherent calculations EPA relied on to establish the state goals for North Carolina, NCDENR discovered a number of errors or incorrect assumptions in the calculations. . . . NCDENR trusts that EPA will make the recommended corrections . . . so that the final goals for North Carolina will be based on correct assumptions . . . In the TSD, EPA stated that it used publicly-available quantitative information from the Database for State Incentives for Renewable and Efficiency (DSIRE) to interpret state RPS requirements. **We believe that EPA has made an egregious error by relying on summary statements and specifications posted on this website.** EPA should have conducted a full due diligence on the state law to better understand and apply the complexities of the North Carolina Renewable Energy and Energy Efficiency Portfolio Standard – REPS.”



SOUTH DAKOTA PUBLIC UTILITY COMMISSION: “If Building Block 2 is not removed from the state’s goal, EPA must correct major flaws in the baseline assumptions for [Deer Creek Station] DCS NGCC, at a minimum. In the proposed rule, EPA assumes normal operation for DCS is at a 1 percent capacity factor because of the hours it operated in 2012. This conclusion was despite the fact that it was under construction¹¹ for more than half of that year.¹² DCS should be considered ‘under construction’ with an assumed 55 percent capacity factor, similar to other new NGCC plants. Additionally, DCS is assumed to have a maximum capacity of 324 MW by EPA. However, the plant is limited by an interconnection agreement of only 300 MW, consistent with the siting permit approved by the SD PUC. These technical errors in EPA’s proposal must be corrected in the final rule if Building Block 2 is used.”

UTAH GOVERNOR GARY HERBERT: “Utah’s rate-based target contains serious errors. The Lake Side 2 natural gas power plant should not have been included as an existing unit in the state’s building block two calculation because it was still under construction in 2012. Instead, Lake Side 2 should be classified as ‘under construction’ in calculating Utah’s carbon dioxide emissions target. Preliminary analysis suggests that correctly classifying the Lake Side 2 facility would change Utah’s compliance target by 46 lbs CO₂/MWh.”

WYOMING PUBLIC SERVICE COMMISSION: “EPA has mistakenly identified the Under Construction Capacity of the Cheyenne Prairie Generating Station as 220 MW. As constructed and put into operation on October 1, 2014, the net output of the combined cycle (NGCC) unit is 95 MW. 95 MW is the net output adjudicated and authorized for inclusion in rate base in proceedings recently concluded before this Commission. Although the name plate capacity of the unit is 100 MW, its capacity has been adjusted to account for the fact that it will be operated at over 6000 feet above sea level, as both elevation and air density affect output. Wyoming’s target should be corrected to accurately reflect the 95MW net output.”

Concern 6: The Rule’s Accelerated Timeline for Finalization and Implementation

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY AND PUBLIC SERVICE COMMISSION: “EPA indicates that it expects to issue a Final Rule by June of 2015. EPA proposes to require that each affected state submit its plan by June 30, 2016. Even with the additional time EPA proposes to grant to states (a one year-extension for submittal of individual plans, or a two-year extension for multistate plans) ADEQ foresees that the preparation of the Arkansas Plan (hereinafter ‘the Plan’) will be lengthier than the proposed deadlines to submit the Plan. The usual timeline to develop a State Implementation Plan (hereinafter ‘SIP’) averages 18 months . . . Plans including controversial issues or multistate efforts can reasonably be expected to take longer. Considering all these steps necessary to develop the Plan, and the time for affected sources to



meet their obligations under the Plan, the Agencies recommend that the Final Rule should provide more time for development of state Plans.”

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT: “Indiana strongly feels that the 13 months U.S. EPA is allowing for state plan development is entirely insufficient for states to prepare adequate plans. Indiana’s statutory rulemaking process requires a minimum of 1.5 years to fully promulgate a rule, and much longer for rulemakings that require extensive stakeholder involvement . . . This proposal is far more complex than any State Implementation Plan developed by Indiana thus far. At a minimum, U.S. EPA should provide states five full years to prepare and submit a state plan under this requirement.”

KENTUCKY ENERGY AND ENVIRONMENT CABINET: “EPA’s expectation that individual states will have the time necessary to evaluate fully the opportunities of such a complex plan and oversee its development is unreasonable. EPA at a minimum should allow a 3-year timeline for states to submit their plans after the rule is finalized.”

OHIO ENVIRONMENTAL PROTECTION AGENCY: “It is not possible for states to meet the deadline of 2020 for the initial reductions. States should not be penalized for the arbitrary dates in the Presidential order that were chosen without a complete understanding of the process needed to modify state legislation, propose and adopt rules, and then have the regulated entities have adequate time to initiate control measures. U.S. EPA’s proposed schedule is arbitrary and unrealistic for state compliance plans to meet the initial compliance deadline of 2020 . . . As discussed above in the state compliance plan comments portion of this document, U.S. EPA may allow a one-year extension, when justified, to June 30, 2016 for the required state submittal plan deadline. To qualify for an extension, the state must submit an initial plan that demonstrates the state is on track to develop a complete plan and that includes meaningful steps that clearly commit the state to complete an approvable plan. Furthermore, U.S. EPA is proposing the initial plan must address **all** components of complete plan, identifying which are incomplete, and for those incomplete parts, identify a comprehensive roadmap, milestones, and dates.”

UTAH GOVERNOR GARY HERBERT: “The EPA has not engaged states and Congress sufficiently in developing these proposed rules. Although the EPA has convened many meetings, it has not adequately addressed state concerns regarding this onerously complex, ambiguous and inconsistent proposal. The EPA proposal has officially requested feedback on nearly 150 substantive and interrelated issues. The broad impact and potential conflicts with existing law presented by each of these issues makes effective response difficult. Exacerbating this challenge, all of these issues are connected in such a way as to render adequate analysis of any one issue impossible unless it is known how the EPA will address related issues. **While the EPA has made itself available to listen to concerns, it has been unable or unwilling to answer basic**



questions regarding the proposed rule and its intended meaning. The EPA's stated timetable for finalizing this rule and the vagueness of the EPA's responses to state inquiries makes meaningful comment on the proposal challenging.”

Concern 7: The Achievability of the Rule’s Interim Targets

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY AND PUBLIC SERVICE COMMISSION: “Of equal importance is the fact that the Arkansas interim goal is almost the same as the final goal. The Agencies understand that EPA intends for the interim goal to allow the state—through the averaging of emissions across a series of individual years—to implement a flexible glidepath to compliance in 2030. However, the Arkansas interim goal is so close to the 2030 goal that, based on a straight-line decline starting in 2020, the state would have to plan, seek approval for, and implement a suite of actions producing a CO₂ emissions reduction of roughly 37% between 2016 and 2020. In practical terms, such a large undertaking in so short a time is unworkable. Any delays in meeting this near-term goal would essentially move the 2030 goal forward in time.”

KENTUCKY ENERGY AND ENVIRONMENT CABINET: “Several utility stakeholders have stated that the interim period forces an impending ‘compliance cliff’ beginning in 2020 that does not consider potential stranded assets and does not afford them the requisite time to prepare for compliance by properly going through their integrated planning process. With the flexibility provided for Section 111(d) compliance, it should be the state’s role to determine how it complies with the ultimate 2030 standard. Therefore, the Cabinet strongly recommends eliminating the interim compliance period and interim target.”

IOWA ENVIRONMENTAL AGENCIES: “Iowa requests that the interim goal be eliminated, or at the very least, start no earlier than the year 2025 with significantly less stringency compared to the final goal. As proposed, there is very little difference between the interim goal and the final goal. (In Iowa, the interim goal is 1341 lbs/MWh and the final goal is 1301 lbs/MWh.) Effectively, the EPA has set a 2020 compliance deadline with no appreciable phase-in. The option offered by EPA to over-comply in later years to make up for lack of compliance in the early years is not realistic and may impose unnecessary costs and adverse effects on reliability that would most likely not be required if additional time were allowed to make necessary changes to the electric system.”

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY: “The proposed interim goal requiring states to meet 80 percent of the 2030 target by 2020 is **completely unworkable**, especially given the lack of credit for early action. Given the timeline of submitting a plan, and the reality



of receiving timely USEPA approval of a plan, states will have no more than three years to meet the 80 percent reduction requirement.”

MINNESOTA POLLUTION CONTROL AGENCY: “Minnesota believes the proposed interim goal requires reassessment. In its current form, the interim goal is too restrictive because the timing does not allow for orderly energy planning. The interim goal fails to account for the manner in which large energy generation shifts generally occur and is at odds with Minnesota’s energy planning processes. The interim goal is too strict, and as a result limits Minnesota’s flexibility in choosing how to meet the interim and/or final reduction goals.”

Concern 8: The Rule’s Use of 2012 as the Baseline Year and the Associated Impact on Early Actors

ARIZONA CORPORATION COMMISSION: “Building Block 4 penalizes early adopter states such as Arizona that have had EE programs in place for decades.”

COLORADO DEPARTMENT OF PUBLIC HEALTH: “It is critically important that EPA’s final rule provide proper credit for early emission reductions. EPA should recognize and defer to state expertise in addressing CO₂ emissions and reward early adopters. Failure to give appropriate early action credit penalizes states that have been proactive.”

FLORIDA PUBLIC SERVICE COMMISSION: “The FPSC also believes it is inappropriate to select a single year (2012) in the development of emission performance requirements. This approach does not take into account anomalies affecting the dispatch of generation in a given year that could occur in a particular state or market. For example, 2012 was not a typical year for electricity generation in Florida as historically low natural gas prices caused an unusual increase in the use of natural gas-fired generation. During a normal year, more coal-fired generation would have been dispatched, resulting in a higher CO₂ annual emission rate for the state. This is particularly true for utilities that are more dependent on coal-fired generation. Therefore, EPA’s use of 2012 as the starting point skews the emissions performance requirements for Florida . . . The EPA’s Proposed Rule does not consider past utility actions by Florida’s utilities that were made to improve overall generating efficiency. These past actions have had a beneficial impact on air quality and have resulted in permanent CO₂ emission reductions per MWh. Failure by EPA to consider these early actions is unreasonable.”

MINNESOTA POLLUTION CONTROL AGENCY: “Minnesota’s early action to spur renewable energy development prior to 2012 must be reflected in the State’s interim and final goals. Minnesota’s ratepayers have made significant transmission and RE facility investment to build the State’s



renewable energy portfolio to what it is today . . . To the extent that the effective RE levels and targets impact a state’s interim and final goals, early adoption of RE through aggressive state policies should not result in a state’s goal being made more stringent.”

MISSOURI PUBLIC SERVICE COMMISSION: “Many of Missouri’s existing renewable projects were developed in response to the Missouri RES. The proposed rule, however, does not provide an opportunity for a state to receive credit for pre-2012 renewable energy projects. The MoPSC requests that the final rule allow states to receive credit for early adoption of renewable projects undertaken to meet state renewable portfolio standards, as well as credit for incremental improvements in nuclear and hydropower generation from existing facilities as an option for compliance with state goals.”

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY: “For Montana, as with many states, 2012 was not an average year for electricity generation. Electricity generation, and resulting carbon emissions, from affected EGUs was approximately 30% below average. Using such a low electricity generation year as EPA’s baseline year for compliance will increase the difficulty of Montana achieving compliance with the interim and final carbon emission rate targets by requiring proportionally more renewable electricity and energy efficiency, in addition to the already aggressive targets, to account for projected electricity generation growth at affected EGUs. Likewise, creating a carbon emission mass target based off the carbon emission numbers in 2012 would be even more problematic as significantly higher electricity generation, and resulting carbon emissions, is expected from the state’s affected EGUs for the years between 2013 and 2030 than was seen in 2012.”

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION: “New Jersey’s enormous progress in cutting Co2 emissions should be recognized by the federal government. Instead, this Proposed Rule would punish our state – and others who have been leaders – for its success. By failing to provide credit for past emission reduction measures, the Proposed Rule would provide a clear and enduring disincentive against early action in the future, absent a federal mandate. It would convey exactly the opposite message that the federal government should be sending to the states and the private sector. Rather than encouraging progress, it would hinder it, as parties would hesitate to act knowing that their progress might be penalized in the future.”

UTAH GOVERNOR GARY HERBERT: “The EPA does not provide adequate justification for using a single year of data, 2012, as the baseline for state carbon dioxide emissions . . . A single year will almost never be truly representative of a state’s electric generating operations being subject to annual variations due to weather, outages, and other factors. If the EPA is going to establish a representative baseline, states should be given the opportunity to choose representative baselines established from averaging various years, including three to five year averages . . . The proposed rule does not give credit for existing plant efficiencies. This approach



penalizes power plants that have already made significant investments in cleaner, more efficient processes and technologies. Utah's coal-fired power plants are among the most efficient in the nation. Utah has the third best coal fleet in the country for emissions rate and should be rewarded for its investment in plant efficiencies."

WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND PUBLIC SERVICE COMMISSION: "EPA's selection of 2012 as the baseline year not only fails to adequately credit states which made substantial reductions prior to that year, it ignores other serious problems associated with using just a single year to establish the baseline. For example, 2012 does not accurately reflect historical emission levels because the high use of natural gas during that year was reflective of record low natural gas prices. In addition, using a single year as a baseline rather than, for example, a three-year average, substantially increases the risk of having the baseline inaccurately represent past emissions, as is exactly the case EPA's use of 2012 as a baseline creates. EPA has since proposed alternatives to using 2012 as a single baseline in its NODA, which we respond to in a separate submission to the docket."

Concern 9: The Rule's Treatment of Nuclear Generation

ARIZONA CORPORATION COMMISSION: "Arizona and 30 other states receive no credit for zero carbon emitting nuclear generation facilities. Instead, Arizona and the other states with nuclear generation are actually penalized by EPA's treatment of these plants. EPA has penalized states with nuclear generation by giving them a more stringent goal as a result of EPA's imputing a 5.8 percent 'at risk' nuclear penalty associated with at-risk plants in other states."

MINNESOTA POLLUTION CONTROL AGENCY: "States with existing nuclear capacity are penalized in the calculation of emission rate goals. Under EPA's approach, states with nuclear power are left with a more stringent emission rate goal relative to states that do not employ nuclear power because of EPA's inclusion of the 6% 'at risk' generation factor in the calculation of state goals. We recommend that this factor be dropped in the determination of states' CO2 compliance goals."

NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES: "While Building Block #3 is intended to encourage the continued operation of nuclear units, instead states with existing nuclear capacity are penalized in the calculation of emission rate goals. Under EPA's approach, states with nuclear power are left with a lower emission rate goal relative to states that do not employ nuclear power, thereby limiting states' options to demonstrate compliance. EPA should reconsider this 6% 'penalty' for 'at risk' nuclear generation. Existing or new nuclear generation should not affect a State's emission rate goal, but rather some portion should be acceptable as



an eligible action toward meeting that goal. DES and the PUC stress the importance of setting standards that preserve options (e.g., nuclear) for fuel diversity and maintain grid reliability.”

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL: “The EPA’s treatment of UCN generation in the proposed rule is a disincentive for the development of additional new nuclear generating capacity. In addition, it is inconsistent with the Administration’s recognition of nuclear generation as a source of carbon free electric generation and the President’s recognition of the leadership that South Carolina and Georgia have taken. If the EPA’s final rule does not provide meaningful credit for the actions taken by South Carolina and Georgia to develop additional nuclear generating capacity for the purpose of reducing GHG emissions, it potentially puts in jeopardy the future of all additional new nuclear units. There are currently 23 new nuclear units that are under review by the US Nuclear Regulatory Commission⁸ that could add more than 23,000 MW of carbon free generation.”

WISCONSIN DEPARTMENT OF NATURAL RESOURCES & PUBLIC SERVICE COMMISSION: “Using 5.8% as the level of ‘at risk’ nuclear was derived based on national data. While this percentage may be meaningful at the national level, it has no relevance at an individual state level. Wisconsin currently only has one nuclear power plant that has two reactors, and if this plant were to shut down, it would do so unit-by-unit, meaning that 100%, 50% or 0% of its generation is at risk. It would actually be impossible for the plant to lose 5.8% of its capacity. Accordingly, requiring the state to preserve that 5.8% of ‘at risk’ generation is arbitrary.”

Concern 10: The Rule’s Lack of Consideration of Stranded Costs

ARIZONA CORPORATION COMMISSION: “The Proposed Carbon Rule fails to consider the age of existing electric generating units (‘EGUs’) and the stranded investment that would result from premature shutdown of coal generation. The costs of approximately \$3 billion for stranded generation in Arizona would have significant retail rate implications. Arizona has the sixth youngest coal fleet in the nation and its utilities have made large investments in many of their coal plants in recent years to comply with other EPA regulations. Two of the units to be shut down would be less than 20 years old at that time and others would have undergone hundreds of millions of dollars in environmental retrofits to comply with other EPA requirements.”

KENTUCKY ENERGY AND ENVIRONMENT CABINET: “Kentucky ratepayers will be burdened with a \$4.5 billion price tag for compliance with the MATS rule if these retrofitted plants are not allowed to operate. These plants are assumed to have a remaining useful life of 20-30 years after modification. For example, the PSC recently approved a request for a Kentucky facility, which would have been shuttered in 2015 under the recently finalized MATS rule, to spend an estimated \$1.26 billion on new technologies to become compliant. The work is under



construction today, and as a result of this investment, the facility will have an additional useful life of at least 30 years, through 2045. Stranding this asset and others would place an unfair cost on Kentucky ratepayers while compromising reliability.”

NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY: “Nebraska’s non-profit public power utilities are statutorily-created entities with limited control and authority, and are required by law to provide least-cost electricity generation.³ As a result, Nebraska public power utilities have less financial flexibility than private entities, relying solely on bonds and ratepayer fees to finance investments in new facilities, retrofits to existing facilities, operating and maintenance costs, and other expenses. This makes Nebraska public power districts more susceptible to the hardships associated with stranded assets. Nebraska public power districts have already invested millions of dollars in upgrades and retrofits to bring existing units into compliance with other air quality regulations such as the Mercury and Air Toxics Rule, Regional Haze, Cross State Air Pollution Rule, and the sulfur dioxide (SO₂) National Ambient Air Quality Standard regulations. The Nebraska public power utilities were able to invest in the necessary upgrades to comply with those regulations because they believed that their existing electric generating units would have a remaining useful life that would allow them to be able to adequately recover these costs. The Clean Power Plan puts these investments made for compliance in other air regulations at risk, forcing utilities to choose between investing in additional capital improvements and shutting down existing units prematurely, resulting in stranded assets. Due to the public power structure of Nebraska’s utilities, the only way to address the escalation in costs is to raise electricity rates on customers—the 1.8 million citizens of Nebraska—and these increases may be significant for those public power utilities with smaller service areas.”

NEVADA DEPARTMENT OF ENVIRONMENTAL PROTECTION: “In developing Nevada’s goals, the USEPA did not consider the remaining useful life of the affected sources. Section 111(d) of the Clean Air Act provides: ‘In promulgating a standard of performance under a plan prescribed under this paragraph, the Administrator shall take into consideration, among other factors, remaining useful lives of the sources in the category of sources to which such standard applies.’ (Emphasis added.) Furthermore, the USEPA must allow states to take the remaining useful lives of the sources into account: ‘Regulations of the Administrator under this paragraph shall permit the State in applying a standard of performance to any particular source under a plan submitted under this paragraph to take into consideration, among other factors, the remaining useful life of the existing source to which the standard applies.’ *Id.* **Contrary to this explicit mandate in the Clean Air Act, the USEPA failed to take into account the remaining useful lives of Nevada’s affected coal-fired power plants and simultaneously denied Nevada the ability to do so by setting an interim goal that requires retirement of Nevada’s remaining coal fired electrical generating units by 2020 . . .** Additionally, as explained further in Section VII(d), the interim goal creates a disincentive to invest in heat rate improvement, since the coal-fired EGUs would have to be shut down shortly after making such investments.”



SOUTH DAKOTA PUBLIC UTILITY COMMISSION: “The Clean Air Act requires EPA to ‘permit the State in applying a standard of performance...to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies.’ . . . EPA Administrator Gina McCarthy, in her testimony before the U.S. Senate Committee on Environment and Public Works, said the rules would allow states to ‘avoid stranded costs.’ Despite this statement, the proposed goal for South Dakota will likely result in the retirement of the state’s single coal plant. *If the state goal is not set at feasible level, the result will be stranded assets in South Dakota, despite Administrator McCarthy’s statement [emphasis in original].”*

UTAH GOVERNOR GARY HERBERT: “The EPA’s proposed rate-based 2030 carbon dioxide emissions target (1,322 lbs CO₂/MWh) for Utah, based on problematic and, in some instances, incorrect assumptions about Utah’s 2012 power generation portfolio, could place enormous costs on Utah’s power system, and greatly increases the risk of premature and costly decommissioning of Utah’s coal-fired power plants. *EPA should allow the full value of existing coal plants to be realized before retirement.”*

Concern 11: The Rule’s Goals in Comparison to those set for New Power Plants

MISSISSIPPI PUBLIC SERVICE COMMISSION: “The lack of real flexibility is not only a question of the infeasibility of retaining any coal generation, but is also an issue with respect to gas-fired generation. Because the Mississippi emissions rate goals throughout the 2020-30 compliance period are all substantially below the already low rate EPA has assumed for existing combined cycle facilities, it is not possible for Mississippi to rely on gas-fired generation to manage the challenges of increasing the levels of renewable generation and energy efficiency. That is, because the emissions rate for existing NGCC units is well above the target rates for the state, increasing NGCC generation only increases the amount of renewable energy and energy efficiency needed to meet the goals . . . Since coal generation is effectively prohibited under the plan, there is no opportunity to run the gas-fired plants more to allow flexibility in achieving the other building blocks.”

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION: “One consequence of EPA’s ‘outside the fence’ approach to BSER is that, under the Rule, New Jersey’s target emission rate for existing EGUs is significantly more stringent than EPA’s emission rate for new EGUs. New Jersey is directed by EPA to achieve an emission rate of 531 lbs/MWh by 2030 for its existing EGUs, while new sources nationwide must meet only an 1,000-1,100 lbs/MWh emission rate, depending on the fuel source and type of unit. It is implicit in Section 111 that performance standards for existing sources must be less stringent than standards for new sources, particularly in light of Section 111(d)’s mandate that the Administrator allow states to consider



‘the remaining useful life of the existing source[.]’ This provision was clearly intended to justify a less stringent standard or more time for compliance for existing sources, not, as is the outcome under the proposed Rule, a more stringent standard for existing sources.”

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: “One area we want to bring to your attention is that EPA unlawfully imposes a standard for affected existing EGUs that is more stringent than the standard for new EGUs. Compared to North Carolina’s mandatory final goal of 992 lb/MWh, the proposed new source performance standard for a new coal unit is 1,000 – 1,050 lb/MWh and for a new gas unit is 1,100 lb/MWh. EPA’s logic implies that a new fossil unit in North Carolina, which can only be constructed using the absolute best control technology, requires a far less stringent compliance requirement than existing units. There is no legal or rational basis to set North Carolina’s mandatory goals for existing units below the standards required for new units.”

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL: “For many states, including South Carolina, the goals under the proposed Section 111(d) rule are more stringent than those in the Section 111(b) rule for new sources. South Carolina’s goal in the proposed rule is 772 lbs CO₂/MWh and the EPA has proposed an emissions rate of 1,000 lbs CO₂/MWh for new large NGCC units in its new source review standards (NSPS) for fossil fuel-fired electric generating units under Section 111(b).¹⁵ The Department believes that the intent of Section 111 of the CAA is to allow existing sources to achieve less stringent standards than new sources. In addition, because of this discrepancy, the replacement of the South Carolina’s current generating capacity with new fossil fueled capacity would result in an allowance for higher CO₂ emissions.”

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY: “The Proposed Emission Guidelines compound the problem created by establishing inequitable state carbon emissions goals by setting those goals for some states, including Virginia, at a level well below that which EPA has proposed for new fossil fuel-fired electric generating units as NSPS under section 111(b) of the Act. The second paragraph of EPA’s ‘The Clean Air Act in a Nutshell: How It Works’ from 2013 says, ‘The law calls for new stationary sources to be built with best technology, and allows less stringent standards for existing stationary sources.’ An examination of the Congressional record indicates that this is how Congress intended section 111 to operate all along . . .”

“The Proposed Emission Guidelines, however, fall into the trap Congress meant section 111 to avoid. By setting the carbon emissions goals for some states at a level far below what EPA has proposed for natural gas combined cycle (NGCC) units under section 111(b), the Proposed Emission Guidelines will hasten the shutdown of existing 111(d) affected units and spur the construction of new NGCC plants. The impact on Virginia would be particularly severe because it will put at risk at least two new NGCC facilities that commenced construction before the Proposed Emission Guidelines were published in the Federal Register. Moreover, because



Virginia’s goal of 810 lb/MWh is well below the lowest CO2 emission rate a new state-of-the-art NGCC can achieve, it is possible that no NGCC plants will be built in Virginia in the future because it may not be economical to do so. This is not the result Congress intended when it drafted section 111.”

Concern 12: The Rule’s Estimation of Plants’ Generation Capacity and Resultant Impact on State Targets

ARIZONA CORPORATION COMMISSION: “EPA’s redispatch calculation is erroneously based upon the annual capacity factor of NGCC capacity. Arizona and other states in the desert Southwest are highly summer peaking, and as a result, the NGCC generation is used at much higher capacity factors in the summer than in the non-summer months. By using the annual capacity factor, EPA misses this fact and as a result effectively assumes energy from the non-summer months could be used in summer months to displace coal The result of this error leads to EPA’s unrealistic assumption that all of Arizona’s coal generation could be replaced by NGCC capacity in the summer, and that Arizona’s utilities could still meet their load obligations. This assumption is incorrect.”

FLORIDA PUBLIC SERVICE COMMISSION: “EPA’s characterization that Florida’s NGCC fleet operated at a ‘51 percent capacity factor’ in 2012 is incorrect due to EPA’s use of nameplate capacity. When discussing generator capacity, system planners and state regulators distinguish generator capacity from nameplate capacity for important reasons. A generator’s nameplate capacity is ‘the maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer.’ By contrast, the generator capacity is ‘the maximum output, commonly expressed in MW, that generating equipment can supply to system load, adjusted for ambient conditions.’ **The EPA states it wanted to use net generating capacity but asserts, incorrectly, that net capacity data was not readily available.** Therefore, EPA’s choice to use nameplate capacity for purposes of assessing annual capacity factors is not supported by its referenced material.”

NORTH CAROLINA PUBLIC UTILITY COMMISSION: “EPA’s methodology for calculating a unit’s capacity value is completely foreign to the electric utility industry. North Carolina electric utilities develop their resource plans to secure capacity to meet the single coincident peak demand modeled over the planning horizon. In North Carolina, this is typically the summer seasonal peak. However, from time-to-time, North Carolina utilities have observed all-time system peak demands during the winter months. While utilities are obligated to meet the peak demand regardless of when it occurs, they typically must plan for more generation in the summer than winter periods. This is due to the physical conditions that reduce the amount of available capacity from a generation facility in summer months.”



“The actual generating capacity, and resulting generation, is typically less than nameplate, and varies by season due to changes in ambient air temperature and other factors.

“Utilizing nameplate capacity for estimating future generation potential and associated CO2 overestimates potential CO2 reductions from adjusted generation profiles. Therefore, the EPA should utilize the ‘summer net capacity values’ rather than nameplate capacity to more accurately reflect the generation profile for North Carolina.”

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL: “For Building Block 2, the EPA used the boiler nameplate data, which is not the actual capacity that these units can achieve. The actual capacity for a natural gas combined cycle (NGCC) unit can be affected by ambient temperature, humidity and availability of fuel. The Department suggests that the EPA consider defining a unit’s CO2 emissions based on the appropriate actual generation.”

WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND PUBLIC SERVICE COMMISSION: “The nameplate capacity used by EPA will not accurately assess the current operating levels of NGCC units or the number of new EGUs that must be built to meet shifting loads and maintain electric reliability. EPA should use actual values for assessing operating levels and the impacts of building block 2, particularly when evaluating electric reliability issues.”



APPENDIX 2: REFERENCES AND LINKS TO STATE COMMENTS

The worksheet below provides links to all state comments reviewed as part of this guide. Under each heading describing an area of concern, the table includes, where appropriate, the agency or office making the relevant comment and the relevant page number within the filing. Note that these citations are not exhaustive, as many filings raised certain issues in multiple places and as part of multiple topics. For example, many states noted EPA errors or other complaints pertaining to their state goals in numerous places throughout their filing. To keep this table to a manageable limit, the table references just one or two of those instances.

Table A2-1: Matrix of State Comments by Area of Concern and Links to State Filings (office and page # denoted)

State	Links to Comments	(1) Legality	(2) Economics/Costs	(3) Reliability	(4a) Block 1 Achievability: Coal Plant Efficiency	(4b) Block 2 Achievability: Re-dispatch to NGCC	(4c) Block 3a Achievability: Renewables	(4d) Block 4 Achievability: Energy Efficiency	(5) Mistakes/Errors	(6) Rushed Regulatory Timeline	(7) Interim Targets	(8) Baseline Year / Credit for Early Action	(9) Crediting of Nuclear Generation	(10) Stranded Assets	(11) ESPS More Stringent than NSPS	(12) Nameplate vs. Summer Capacity
Alabama	Department of Environmental Management	AGL *	DEM 1	DEM 1	DEM 3	DEM 3	DEM 4			DEM 2	DEM 4	DEM 3				DEM 3
Alaska	Governor Joint Filing: Alaska Department of Environmental Conservation, Regulatory Commission of Alaska & Alaska Energy Authority	GOV 2 JF 2	JF 4, 30	JF 4	JF 18	JF 20	JF 26	JF 28	JF 44 & 49	JF 48				JF 21		
Arizona	Department of Environmental Quality Corporation Commission Residential Utility Consumer Office	CC 2 DEQ Add.	DEQ 8	CC 30-33	CC 14-15	CC 15-16 DEQ all		CC 27			CC 13 & 44 RUCO 2	CC 13	CC 23 RUCO 3	CC 4 RUCO 2	CC 18	CC 16

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Arkansas	Department of Environmental Quality & Public Service Commission Attorney General	AG 1	AG 1	DEQ & PSC 3	DEQ & PSC 3	DEQ & PSC 13	DEQ & PSC 22		DEQ & PSC 20	DEQ & PSC 30	DEQ & PSC 3					
California	Air Resources Board															
Colorado	Joint Filing (Department of Public Health & Environment, Department of Energy, Department of Regulatory Agencies)		JF 2	JF 2	JF 4	JF 5		JF 6	JF 8	JF 7	JF 7	JF 2				JF 5
Connecticut	Department of Energy and Environmental Protection						DEEP 14		DEEP 28				DEEP 12			
Delaware	Department of Natural Resources and Environmental Control															

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Florida	Department of Environmental Protection Public Service Commission	AGL* PSC 8	PSC 21	PSC 19	PSC 12	PSC 15	PSC 15	PSC 18	DEQ 5 PSC 6	PSC 10	PSC 10	PSC 8	PSC 15	PSC 13		PSC 14
Georgia	Attorney General Department of Natural Resources Public Service Commission	AGL* PSC 1	EDP 16 PSC 1	EDP 16	EDP 5	EDP 16			EDP 5	EDP 21	EDP 18	EDP 8	EDP 4 PSC 2	PSC 7		
Hawaii	Department of Health Public Utilities Commission						DOH 15		DOH 12-13							
Idaho	Governor/Office of Energy Resources	OER 1-7				OER 12		OER 19		OER 22	OER 23	OER 7-10	OER 18			
Illinois	Governor				GOV 5	GOV 6				GOV 8	GOV 5	GOV 4	GOV 7	Gov 6		
Indiana	Department of Environmental Management Governor	AGL* DEM 1 GOV 1	DEM 2 GOV 1	GOV 1 DEM 4-7	DEM 7-12	DEM 12-16	DEM 16-22	DEM 22-28	DEM 29	DEM 1-4	DEM 2			DEM 7 & 30		DEM 14

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Iowa	Joint Filing (Department of Natural Resources, Economic Development Authority, Utility Board)			JF 15	JF 11	JF 12			JF 3 & 14	JF 8	JF 5 & 15	JF 2 & 5				
Kansas	Corporation Commission Department of Health and Environment	AGL* CC 4-10 DHE 1	CC 14 & 28-32	CC 19-22	CC 12-13 DHE 3		CC 27-28	CC 16 DHE 8	DHE 5-8	CC 23 DHE 15	DHE 10	DHE 10	CC14-15	CC 14, & 32-33 DHE 12-13		
Kentucky	Attorney General Energy and Environment Cabinet	AG 1 EEC 1	AG 2 EEC 2 & 11	AG 4 EEC 3 & 15	EEC 7	EEC 17	ECC 9			AG 3 EEC 18	EEC 14	EEC 18	EEC 14	EEC 14		
Louisiana	Department of Environmental Quality Public Service Commission	AGL* DEQ 2 PSC 2-18	PSC 35-36	DEQ 9-11 PSC 48-50	PSC 24-29	PSC 48	DEQ 15-18 PSC 59-84	PSC 84-98	DEQ 19 PSC 37-41	DEQ 20 PSC 50-53	DEQ 21 PSC 50-53		PSC 30 & 55-58			DEQ Att. 3

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Maine	Department of Environmental Protection Public Utilities Commission								DEP 10 PUC 1			DEP 13 PUC 9				
Maryland	Department of the Environment and Public Service Commission															
Massachusetts	Executive Office of Energy and Environmental Affairs															
Michigan	Department of Environmental Quality	AGL*	DEQ 4	DEQ 22-23	DEQ 6-7	DEQ 7-10				DEQ 2	DEQ 3	DEQ 16	DEQ 4		DEQ 24	
Minnesota	Department of Commerce & Pollution Control Agency Public Utilities Commission								MN Attachment		DEC & PCA 3	DEC & PCA 6	DEC & PCA 5			

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Mississippi	Department of Environmental Quality Public Service Commission	DEQ 1 PSC 8	PSC 6	PSC 21	DEQ 12 PSC 12	DEQ 12 PSC 21	DEQ 14 PSC 29		DEQ 12	DEQ 15 PSC 42	DEQ 16		PSC 31	DEQ 16 PSC 39	DEQ 6	
Missouri	Department of Natural Resources Public Service Commission Attorney General		AG 1 PSC 4	AG 2 PSC 4	DNR 1 PSC 2	DNR 2		PSC 10		DNR 11	DNR 12 PSC 1	PSC 2	DNR 3			
Montana	Attorney General Department of Environmental Quality Public Service Commission	AGL* PSC 8	PSC 11	PSC 4	DEQ 12 PSC 6	DEQ 10			DEQ 17	DEQ 15	DEQ 9	DEQ 9 PSC 3				
Nebraska	Department of Environmental Quality Power Review Board	AGL* DEQ 1		PRB 2	DEQ 4 PRB 2	DEQ 4 PRB 2	DEQ 4						PRB 4	DEQ 2		

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Nevada	Department of Environmental Protection	DEP 1	DEP 29	DEP 6	DEP 10	DEP 14			DEP 22-25	DEP 4	DEP 5	DEP 9		DEP 5		DEP 31
New Hampshire	Department of Environmental Services				DES 5							DES 2	DES 5			
New Jersey	Department of Environmental Protection	DEP Legal (all)	DEP Tech 3	DEP Tech 4		DEP Tech 3				DEP Tech 11		DEP Tech 3	DEP Tech 4		DEP Tech 11	
New Mexico	Environment Department	ED 1	ED 2		ED 4	ED 5	ED 8		ED 8	ED 2	ED 9	ED 3 & 9				ED 4
New York	Department of Environmental Conservation			DEC 8-11		DEC 6	DEC 7 & 16-17		DEC 17			DEC 4 & 20	DEC 19-20			DEC 12
North Carolina	Department of Natural Resources Utilities Commission	DNR 2 & App. A UC 6	UC 77	UC 74	UC 15-23 DNR 8 & App. B	UC 32 DNR 14-17 & App. B		DNR 19	UC 23-24 DNR App. C	DNR 4 & 43 & App. B	UC 81 DNR 4 & 44 & App. B	UC 7-12	UC 12-15	UC 77	DNR 5	UC 29-30 DNR 1

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North Dakota	Governor Department of Health Department of Agriculture	AGL* GOV 1 DOA 2 DOH 7-13			DOH 14		DOH 21	DOH 25	DOH 22	DOH 30-33	DOH 29	DOH 14	DOH 10			
Ohio	Attorney General Environmental Protection Agency Public Utilities Commission	AGL* AG EPA 11-12 PUC 8-15	AG 1 EPA 11 PUC 15-16	AG 1 EPA 9-10 PUC 8-9 & 34-36	PUC 25	EPA 14	EPA 77		EPA 70 UC 23 & 44	EPA 13-14 PUC 17-23	EPA 136	EPA 144 UC 48	EPA 9 EPA 157		EPA 71 UC 39	
Oklahoma	Department of Environmental Quality	AGL*			DEQ 31	DEQ 31	DEQ 34		DEQ 34		DEQ 27					
Oregon	Department of Environmental Quality									DEQ 6		DEQ 6				

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Pennsylvania	Department of Environmental Protection Public Utilities Commission	DEP 1		PUC 6	DEP 6 PUC 29	PUC 36		DEP 11		DEP 4		DEP 3 PUC 60				PUC 162
Rhode Island	Joint Filing (Department of Environmental Management, Office of Energy Resources)															
South Carolina	Attorney General Department of Health	AGL * AG		DH 11	DH 5	DH 5		DH 5		DH 9	DH 10	DH 6	DH 2		DH 3 & 6	DH 5
South Dakota	Public Utilities Commission	AGL *	PUC 17	PUC 6	PUC 10	PUC 11		PUC 16	PUC 12	PUC 5				PUC 39		
Tennessee	Department of Environment and Conservation Tennessee Regulatory Authority	DEC 29 TRA 1	RA 3	DEC 53	DEC 10	DEC 66				DEC 42		DEC 41	DEC 13 & 38	DEC 58		

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Texas	Commission on Environmental Quality Public Utility Commission	CEQ 19 & 40 PUC 8-9	CEQ 8 PUC 2	CEQ 15 PUC 15-16	CEQ 21-23	CEQ 43	CEQ 57	PUC 74	CEQ 12	CEQ 12 PUC 81	CEQ 16 PUC 79 & 93	CEQ 18, 56 & 61 PUC 29	CEQ 14 & 31	CEQ 37	CEQ 46	
Utah	Governor	AGL* GOV 1	GOV 5	GOV 14	GOV 11	GOV 13			GOV 7	GOV 4	GOV 10	GOV 9 & 18		GOV 7		GOV 14
Vermont	Department of Environmental Conservation															
Virginia	Department of Environmental Quality State Corporation Commission	SCC 4	SCC 3	SCC 3		SCC 12		SCC 36		DEQ 15	DEQ 15 SCC 18	DEQ 13	DEQ 8 SCC 28	DEQ 11 SCC 18	SCC 36	
Washington	Office of the Governor/Department of Ecology											DOE 3				
West Virginia	Department of Environmental Protection	AGL* DEP 2	DEP 58	DEP 37	DEP 22	DEP 36	DEP 41	DEP 51		DEP 53	DEP 52			DEP 33		

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Wisconsin	Department of Natural Resources	DNR Part 1 p. 2 & Part 5	GOV 2	DNR Part 1 pp. 3-4 GOV 2	DNR Part 2 pp. 3-13	DNR Part 2 pp. 14-20			DNR Part 3	DNR Part 1 p. 2	DNR Part 1 7	DNR Part 1 pp. 5-6	DNR Part 2 pp. 21-22	DNR Part 1 p. 5 GOV 2		DNR Part 2 p. 20
	Office of the Governor															
Wyoming	Department of Environmental Quality	AGL* DEQ 1	PSC 14	PSC 38	DEQ 10	PSC 13	PSC 14	PSC 20	DEQ 10	DEQ 12		DEQ 11 & 14		PSC 8-9		DEQ 12
	Governor Public Service Commission															
Totals		32	28	32	34	35	20	17	28	34	30	33	24	22	8	16

* Letter from the Attorneys General of Attorneys General of Alabama, Florida, Georgia, Indiana, Kansas, Louisiana, Michigan, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Utah, West Virginia, and Wyoming. Available [here](#).

The following Table A2-2 includes links to filed by state departments/agencies on EPA's proposed rule. It is sorted by alphabetically by state and then by department/agency.

Table A2-2. Links to Comments Filed by States					
State	Department/Agency	Official Title	Official Name	Date of Filing	Link to Filing
Alabama	Alabama Department of Environmental Management	Director	Lance R. LeFleur	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24264
Alaska	Alaska Department of Environmental Conservation	Commissioner	Larry Harig	9/4/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-14407
	State of Alaska	Governor	Sean Parnell	12/11/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23855
Arizona	Arizona Department of Environmental Quality	Director	Henry R. Darwin	11/4/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-21787
	Arizona Department of Environmental Quality	Director	Henry Darwin	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23938
	Arizona Public Service	Director Environmental Policy & Programs	Chas Spell	12/8/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23482
	Air Quality Division, Arizona Department of Environmental Quality	Executive Consultant, Legal Support Section	Steve Burr	8/29/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-14064
	Arizona Corporation Commission	Executive Director	Jodi Jerich	12/8/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23479
Arkansas	Arkansas Public Service Commission	Chairman	Colette D. Honorable	12/5/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22736
	Arkansas Department of Environmental Quality	Director	Theresa Marks	10/7/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-19420

Table A2-2. Links to Comments Filed by States

State	Department/Agency	Official Title	Official Name	Date of Filing	Link to Filing
Arkansas (cont.)	Arkansas Department of Environmental Quality et al., Members of the Midcontinent States Environmental and Energy Regulators	Director	Teresa Marks	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24335
California	Air Resource Board	Chairman	Mary D. Nichols	12/8/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23433
Colorado	Colorado Department of Public Health and Environment et al.	Executive Director and Chief Medical Officer	Larry Wolk	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22856
Connecticut	Connecticut Green Bank	President and Chief Executive Officer	Bryan Garcia	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24080
Delaware	Delaware Solid Waste Authority	Manager of Landfill Gas Systems	Angela D. Marconi	12/10/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23648
Florida	Florida Department of Environmental Protection	Interim Secretary	Clifford D. Wilson III	12/10/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23633
	Florida Office of Public Counsel	Associate Public Counsel	John J. Truitt	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23968
	Florida Public Service Commission	Chairman	Art Graham	12/10/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23650
	Florida Department of Agriculture and Consumer Services	Commissioner	Adam H. Putnam	12/10/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23649
	Florida Department of Environmental Protection	Program Administrator	Timothy Rach	8/7/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-7695

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State	Department/Agency	Official Title	Official Name	Date of Filing	Link to Filing
Georgia	Georgia Department of Law	Attorney General	Samuel S. Olens	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23178
	Georgia Environmental Protection Division	Chief, Air Protection Branch	Keith M. Bentley	12/10/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23715
	Georgia Public Service Commission	NA	NA	12/9/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23535
	Georgia Public Service Commission	Public Service Commissioner	Stan Wise	10/7/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-19411
Hawaii	Public Utilities Commission	Chair	Hermina Morita	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24224
	Hawaii Department of Health	Deputy Director for Environmental Health	Gary Gill	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23121
Idaho	State of Idaho, Governor's Office of Energy Resources	Governor	C. L. Otter	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23249
Illinois	State of Illinois	Governor	Governor Pat Quinn	12/4/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22692
Indiana	Indiana Department of Environmental Management	Commissioner	Thomas W. Easterly	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24292
Iowa	Iowa Department of Natural Resources, Iowa Utilities Board, and Iowa Economic Development Authority	NA	NA	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23271



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Kansas	Kansas Corporation Commission	Chair	Shari Feis Albrecht	11/1/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-21276
	Division of Environment, Kansas Department of Health and Environment	Director	John Mitchell	8/26/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-13850
Kentucky	Commonwealth of Kentucky	Attorney General	Jack Conway	8/29/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-14063
	Energy and Environment Cabinet, State of Kentucky	Secretary	Leonard K. Peters	12/3/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22574
Louisiana	State of Louisiana Department of Environmental Quality	Assistant Secretary, Environmental Services	Sam L. Phillips	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24279
	Louisiana Public Service Commission	Executive Secretary	Eve Gonzalez	9/18/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-17318
	Louisiana Department of Environmental Quality	Secretary	Peggy Hatch	9/18/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-17317
	Louisiana Department of Environmental Quality	Secretary	Peggy M. Hatch	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23991
	Louisiana Public Service Commission	Staff Attorney	Melanie A. Verzwjy	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23175
Maine	Public Utilities Commission, State of Maine, et. al.	Chairman	Thomas Welch	12/5/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22807
	Maine Department of Environmental Protection	Commissioner	Patricia W. Aho	12/11/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23820
Maryland	Maryland Department of the Environment	Secretary	Robert M. Summers	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24056

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Massachusetts	Executive Office of Energy and-Environmental-Affairs, State of Massachusetts	Secretary	Maeve Valley Bartlett	12/12/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-24237
Michigan	Michigan Department of Environmental Quality	Director	Dan Wyant	12/13/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-25002
	Director	Michigan Department of Environmental Quality	Dan Wyant	9/17/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-17284
Minnesota	Minnesota Department of Commerce	Commissioner	Mike Rothman	12/9/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23509
	Minnesota Public Utilities Commission	Chair	Beverly Jones Heydinger	12/12/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-24049
	Minnesota Pollution Control Agency	Commissioner	John Stine	9/27/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-17900
Mississippi	Mississippi Department of Environmental Quality	Executive Director	Gary C. Rikard	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22862
	Mississippi Public Service Commission	General Counsel	Shawn S. Shurden	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22931
Missouri	State of Missouri	Attorney General	Chris Koster	12/5/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22745
	Missouri Public Service Commission	Chairman	Robert S. Kenney	12/8/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23373
	Missouri Department of Natural Resources	Director	Sara Parker Pauley	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22853
Montana	State of Montana	Attorney General	Tim Fox	12/10/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23600
	Montana Public Service Commission	Chairman	W. A. Gallagher	12/12/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23936

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Montana (cont.)	Montana Public Service Commission	Commissioner	Travis Kavulla	9/15/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-17166
	State of Montana	Governor	Steve Bullock	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24038
Nebraska	Nebraska Department of Environmental Quality	Acting Director	Patrick W. Rice	12/9/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23583
	State of Nebraska	Governor-elect of Nebraska	Pete Ricketts	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23315
Nevada	Department of Conservation and Natural Resources, Nevada Division of Environmental Protection	Administrator	Colleen Cripps, Ph.D.	12/5/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22723
	Nevada Division of Environmental Protection	Administrator	Colleen Cripps	9/15/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-17161
	Division of Environmental Protection, Department of Conservation and Natural Resources, State of Nevada	Deputy Administrator	David Emme	12/5/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22744
New Hampshire	New Hampshire Public Utilities Commission	Commissioner	Robert R. Scott	12/13/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-25014
New Mexico	New Mexico Environment Department	Cabinet Secretary	Ryan Flynn	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23085
	New Mexico Environment Department	Cabinet Secretary	Ryan Flynn	9/17/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-17291

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State	Department/Agency	Official Title	Official Name	Date of Filing	Link to Filing
	New Mexico Public Regulation Commission	Commissioner, District 2	Patrick H. Lyons	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24311
New York	New York State Department of Environmental Conservation et al.	Commissioner	Joseph J. Martens	12/10/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23627
	New York Power Authority	Director Legislature & Regulatory Affairs	Jeffrey C. Cohen	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23990
North Carolina	North Carolina Utilities Commission	Executive Director	Christopher J. Ayers	12/8/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23399
	North Carolina Department of Environment and Natural Resources	Secretary	John Skrvarla	9/18/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-17296
	North Carolina	Secretary, Department of Environment and Natural Resources	John E. Skvarla	12/9/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23542
North Dakota	North Dakota Department of Agriculture	Commissioner	Doug Goehring	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24002
	North Dakota Department of Health	Director, Division of Air Quality	Terry L. O'Clair	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24110
	North Dakota	Governor	Jack Dalrymple	12/9/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23510

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	North Dakota Department of Health	NA	Lance LeFleur, Tom Easterly and L. David Glatt	12/13/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-24970
Ohio	Ohio Environmental Protection Agency	Director	Craig W. Butler	12/5/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22760
	Ohio	Ohio Attorney General	Mike DeWine	12/10/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23640
	Public Utilities Commission of Ohio, et. al.	Ohio Federal Energy Advocate	Jonathan J. Tauber	12/5/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22762
Oklahoma	State of Oklahoma, et. al.	Attorney General	E. Scott Pruitt	12/12/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23949
	State of Oklahoma	Attorney General	E. Scott Pruitt	12/15/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-25433
	Oklahoma Department of Environmental Quality	Executive Director	Scott A. Thompson	10/7/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-19419
	State of Oklahoma	Secretary of Energy and Environment	Michael Teague	12/13/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-25011
	Office of the Secretary of Energy & Environment, State of Oklahoma	Secretary, Energy and Environment	Michael J. Teague	12/9/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23515
	Oklahoma Department of Environmental Quality	Supervising Attorney, Air Quality Division	Robert D. Singletary	12/11/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23853
Oregon	Oregon Department of Environmental Quality	Director	Dick Pedersen	12/2/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22539

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	Oregon Department of Environmental Quality	Director	Dick Pederson	10/21/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-20678
Pennsylvania	Pennsylvania Department of Environmental Protection	Acting Secretary	Dana K. Aunkst	12/5/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22739
	Pennsylvania Department of Environmental Protection	Assistant Director, Bureau of Air Quality	Dean Van Orden	8/7/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-7683
Pennsylvania	Pennsylvania Public Utility Commission	Chairman	Robert F. Powelson	12/13/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-24973
	Pennsylvania Public Utility Commission	Counsel	James P. Melia	12/12/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-24099
Rhode Island	Rhode Island Department of Environmental Management	Director	Janet Coit	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23040
South Carolina	Bureau of Air Quality, South Carolina Department of Health and Environmental Control	Chief	Myra C. Reece	12/3/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22584
	State of South Carolina, Office of the Attorney General	Deputy Solicitor General	J. Emory Smith, Jr.	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23192
	South Carolina Department of Health and Environmental Control	Director of Environmental Affairs	Elizabeth A. Dieck	12/8/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23381

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South Dakota	South Dakota Public Utilities Commission	Commissioner	Brian P. Rounds	12/10/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23709
Tennessee	Tennessee Department of Environment and Conservation	Commissioner	Robert J. Martineau, Jr.	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23098
	Tennessee Regulatory Authority	Director	Kenneth C. Hill	12/5/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22804
Texas	Texas Public Utilities Commission	Director	Richard A. Hyde	9/17/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-17285
	Texas Commission on Environmental Quality	Executive Director	Richard A. Hyde et al.	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23305
Utah	Gary R. Herbert, Governor, State of Utah	Energy Advisor	Cody B. Stewart	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23100
	Utah Municipal Power Agency	General Manager	Layne Burningham	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22919
	State of Utah	Governor	Gary R. Herbert	12/8/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23417
Vermont	Vermont Department of Environmental Conservation	Commissioner	David Mears	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23008
Virginia	Virginia State Corporation Commission	General Counsel	William H. Chambliss	12/12/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-24065
	Commonwealth of Virginia, Office of the Attorney General	Attorney General	Mark R. Herring	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-22951
	Virginia Manufacturers Association	Director of Member Services	Cassidy Rasnick	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23079
	Virginia Department of Environmental Quality	Director, Air Division	Michael G. Dowd	12/6/2014	http://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-23258

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Washington	State of Washington	Governor	Jay Inslee	12/5/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22764
West Virginia	West Virginia Department of Environmental Protection	Cabinet Secretary	Randy C. Huffman	12/9/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23540
Wisconsin	State of Wisconsin	Governor	Governor Scott Walker	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23202
Wisconsin (cont.)	Wisconsin Department of Natural Resources	Secretary	Cathy Stepp et al.	12/9/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23541
Wyoming	Wyoming Public Service Commission	Chairman	Alan B. Minier	12/12/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23932
	State of Wyoming	Governor	Matthew H. Mead	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23062
Various	California Air Resources Board et al.	Chair	Mary D. Nichols	12/10/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23597
Various	Midcontinent States Environmental and Energy Regulators	Chairman	Douglas Scott	12/2/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22535
Various	North Dakota Department of Health et al.	Chief, Environmental Health Section	L. David Glatt	12/11/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23848
Various	Attorney General of New York et al.	NA	Eric T. Schneiderman	12/6/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23191
Various	Midcontinent States Environmental and Energy Regulators	NA	Douglas Scott	12/13/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24967
Various	Attorneys General of West Virginia, Nebraska, Oklahoma, and Alabama	Attorney General of West Virginia	Patrick Morrisey	8/29/2014	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-14062