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OF THE FEDERAL GOVERNMENT



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

June 23, 2023

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The Honorable Michael S. Regan  
Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20004

Dear Administrator Regan:

We write to express our deep concerns regarding the limited opportunities for public engagement in the rulemaking process for the Environmental Protection Agency's (EPA) New Carbon Rule, as published in the Federal Register last month<sup>1</sup>. The proposal introduces new legal interpretations and presents sweeping claims about the future of technologies and infrastructure used in powering our electric grid. However, the drafted proposal appears to exceed the EPA's statutory limits under Section 111 of the Clean Air Act, as clearly articulated by the Supreme Court in *West Virginia v. EPA*. Even if the EPA were to possess the authority to impose the generation-shifting proposed, which it does not, the evidence relied upon by the Agency to justify its determinations of the "best system of emission reduction" is speculative and lacks substantiation.

Despite the comprehensive nature of the proposal and the unprecedented legal and factual assertions presented therein, the EPA has provided only minimal opportunities for public input. As representatives of the coal industry and the communities it supports, we firmly believe that the voices of our constituents deserve to be heard and valued throughout the rulemaking process. We therefore strongly urge the EPA to extend the comment period by at least 120 days after August 8, 2023 to allow for the necessary legal, economic, technical, and grid analyses to be conducted. It is crucial to fully understand the potential legal and practical issues, assess the ongoing EPA power sector dockets, and heed the warning signs that inadequate consideration of these factors could result in irreversible and tragic consequences. While we are aware of EPA's extension of the original deadline by 15 days, we feel this is still inadequate as the rule covers 181 pages with 63 supporting documents. This is simply not enough time for the entities who will see their businesses harmed by this rule to fully analyze and respond to the EPA's proposal.

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<sup>1</sup> *New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule*, 88 Fed. Reg. 33,240.

Historically, previous rulemakings pertaining to the power sector under Section 111 of the Clean Air Act have included robust public participation and engagement. Multiple public hearings were held, and comment periods lasted for extended durations. For instance, the proposed Section 111(d) rule in 2014 featured a comment period lasting 165 days, and the proposed repeal of the Clean Power Plan in 2018 allowed for 192 days of public comment. Additionally, the implementation of the Affordable Clean Energy rule and the repeal of the Clean Power Plan included public hearings and listening sessions conducted in various locations across the nation, ensuring that diverse perspectives were heard and considered. We strongly believe that a similar approach should be adopted for the EPA's New Carbon Rule, with public hearings held in areas directly impacted by the proposed regulations.

The Agency's decision to severely limit opportunities for public input, particularly in comparison to previous power sector rulemakings, is deeply concerning. The EPA's New Carbon Rule represents a substantial effort with far-reaching effects, and the EPA's own summary of the proposal acknowledges the significant direct costs and impacts involved. It is essential that the American people and the communities we represent are granted sufficient time and means to fully comprehend and assess the proposal's implications. A thorough and informed public discourse is crucial to ensure a balanced and well-founded decision-making process.

Given the importance and complexity of the EPA's New Carbon Rule, we respectfully request your commitment to extend the comment period by at least 120 days after the August 8<sup>th</sup> deadline and to facilitate a series of public hearings in areas significantly affected by the proposed regulations. These measures will enable our constituents to engage meaningfully with the rulemaking process, contribute valuable insights, and help shape the final outcome.

We kindly request your response to this matter no later than June 30, 2023, allowing us to address the concerns of the communities we represent effectively. We appreciate your attention to this critical issue and look forward to your prompt and thoughtful response.

Sincerely,



Harriet M. Hageman  
Member of Congress



Dan Newhouse  
Member of Congress



Carol D. Miller  
Member of Congress



Dan Meuser  
Member of Congress



Michael Burgess, M.D.  
Member of Congress



Beth Van Duyne  
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