



COMMITTEE ON ENERGY AND COMMERCE

Chairman Fred Upton
114th Congress

The Ratepayer Protection Act

Authored by Energy and Power Subcommittee Chairman Ed Whitfield (R-KY)

BACKGROUND: Last June, EPA proposed a [rule](#) for existing power plants, referred to by the agency as its “Clean Power Plan.” In the rule, EPA interprets a rarely invoked provision of the Clean Air Act, section 111(d), to allow the agency to set mandatory carbon dioxide (CO₂) “goals” for each state’s electricity system. In the rule, EPA seeks to fundamentally change how electricity is generated, distributed, and consumed in the United States.

Under EPA’s unprecedented proposal, states would be required to submit complex state plans to EPA in 2016, and to begin to meet interim goals in 2020 and a final goal in 2030. For states that do not submit a satisfactory plan, EPA would impose a Federal Plan, a model of which has not yet been proposed by the agency.

State governors, regulators, and electric reliability organizations have filed extensive [comments](#) raising a wide range of concerns, from issues concerning the legality of the rule to how it would be implemented, the significantly higher electricity costs, and the risks to electric reliability. There are threshold questions about whether EPA has authority to proceed with the rule, and legal challenges have already been brought by at least 12 states. EPA plans to finalize the rule this summer.

Energy and Power Subcommittee Chairman Ed Whitfield (R-KY) has released legislation to allow for timely judicial review before states would be required to comply with the rule and to ensure a state would not be forced to implement a state or federal plan that would have a significant adverse effect on its ratepayers.

WHAT THE ACT WILL DO:

Extend Compliance Dates: The bill would extend the rule’s compliance dates pending judicial review, including the dates for submission of state plans.

Safe Harbor for States to Protect Ratepayers: The bill would provide that no state shall be required to implement a state or federal plan that the state’s governor, in consultation with other relevant state officials, determines would have a significant adverse effect on (i) retail, commercial, or industrial ratepayers; or (ii) the reliability of the state’s electricity system.

EPA REGULATIONS AND RELATED INFORMATION

- **Rulemaking Documents:** [Proposed Rule](#); [Rulemaking Documents](#); [Technical Documents](#);

[Legal Memorandum](#); [Clean Power Plan Toolbox for States](#); [Docket](#)

- **Links to E&C Hearings:** [“EPA’s Proposed Carbon Dioxide Regulations for Power Plants”](#) (June 2014); [“FERC Perspectives: Questions Concerning EPA’s Proposed Clean Power Plan and other Grid Reliability Challenges”](#) (July 2014); [“State Perspectives: Questions Concerning EPA’s Proposed Clean Power Plan”](#) (Sept. 2014); [“EPA’s Proposed 111\(d\) Rule for Existing Power Plants: Legal and Cost Issues”](#) (March 2015). For additional information, see *also* E&C Majority Staff Report entitled [“EPA’s Proposed CO2 Regulations for Existing Power Plants: Critical Issues Raised in Hearings and Oversight.”](#)

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