



U.S. CHAMBER OF COMMERCE

November 12, 2014

The Honorable Gina McCarthy, Administrator
U.S. Environmental Protection Agency
Mailcode: 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Request to Extend Comment Period for Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generation Units, Proposed Rule, Docket ID No. EPA-HQ-OAR-2013-0602; FRL-9910-86-OAR, 79 Fed. Reg. 34,830 (June 18, 2014)

Dear Administrator McCarthy:

The American Chemistry Council, American Forest & Paper Association, American Fuel & Petrochemical Manufacturers, American Iron and Steel Institute, American Petroleum Institute, American Wood Council, Brick Industry Association, Corn Refiners Association, Council of Industrial Boiler Owners, Electricity Consumers Resource Council, the National Association of Manufacturers, National Lime Association, National Oilseed Processors Association, Portland Cement Association, The Fertilizer Institute, and the U.S. Chamber of Commerce, (collectively, “the Associations”) respectfully request that the Environmental Protection Agency (“EPA” or “the Agency”) extend the comment period for the proposed Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generation Units by 60 days. The Associations believe an extension is necessary due to EPA’s recent issuance of a Notice of Data Availability (“NODA”). See 79 Fed. Reg. 64,543 (Oct. 30,

2014). Given the broad scope of the NODA, a 60-day extension of the comment period is necessary to ensure that the Associations and all other interested stakeholders have a full and fair opportunity to present EPA with relevant information necessary for the Agency to make an informed, reasoned, and defensible decision regarding how, if at all, it will regulate existing fossil fuel-fired EGUs under Section 111(d) of the Clean Air Act.

EPA's proposed rule is one of the most far-reaching regulations the Agency has ever proposed. Looking beyond fossil fuel-fired EGUs, EPA's proposal touches on all aspects of the electricity system, including generation, transmission, and consumption. Given the sheer breadth of the proposal, evaluating the technical and legal bases for the proposed rule is a daunting task, and EPA appropriately granted a 45-day extension of its initial comment deadline to account for the complexity of its proposal. 79 Fed. Reg. 57,492 (Sept. 25, 2014). While this extension provided much-needed time to continue to evaluate EPA's original proposal, the current December 1, 2014, deadline does not provide sufficient time to evaluate and comment on the myriad of new issues raised in EPA's NODA, including how these issues could revise or replace portions of EPA's initial proposal.

While framed as a NODA, EPA's October 30, 2014, submission is effectively an alternative proposal which, if adopted by the Agency, would fundamentally alter key aspects of the original proposal. In fact, virtually every aspect of the initial proposal could be changed substantially based on the options outlined by EPA in the NODA. For example, the NODA proposes potentially dramatic changes in the compliance schedule over which Building Blocks 1 and 2 must be implemented, and offers a number of factors on which a revised schedule should be based. Further, with respect to Building Blocks 2 and 3, EPA suggests a number of new factors on which its BSER analysis could be based, as well as potential changes to the way that emissions reductions could be divided among the States. Additionally, EPA proposes a number of potential revisions to the goal computation equation, including changes to the baseline emissions on which the emissions reductions are based. The 32 days between EPA's publication of the NODA and the current comment deadline is insufficient for the Associations and other interested stakeholders to evaluate and comment on the legal and technical ramifications of each permutation of the proposed rule that could occur if various portions of the NODA were incorporated into a final rule.

Further, the Associations urge EPA to base its decision on this request on the complexity of the proposed rule and NODA and not on arbitrary deadlines for finalizing the rule. While EPA has indicated it plans to issue a final rule by June 1, 2015, EPA is under no legal obligation to comply with that deadline. In the proposed rule and NODA, EPA has proposed an expansive and complex regulatory program of unprecedented scope for the Agency, the States, and the regulated community. To ensure that any final regulation issued by EPA is legally defensible and technologically feasible, it is imperative that the Agency provide sufficient time both for interested stakeholders to comment on the proposed rule and for EPA to evaluate and respond to those comments. Thus, the Associations urge EPA to focus first on ensuring that there is sufficient time for all interested stakeholders to comment on the proposed rule and NODA and to adjust, as necessary, any expectations for issuing a final rule.

For these reasons, the Associations respectfully request that the comment period for the proposed rule and NODA be extended for 60 days. We appreciate your consideration of this request.

Respectfully submitted,

American Chemistry Council

American Forest & Paper Association

**American Fuel & Petrochemical
Manufacturers**

American Iron and Steel Institute

American Petroleum Institute

American Wood Council

Brick Industry Association

Corn Refiners Association

Council of Industrial Boiler Owners

Electricity Consumers Resource Council

National Association of Manufacturers

National Lime Association

National Oilseed Processors Association

Portland Cement Association

The Fertilizer Institute

U.S. Chamber of Commerce