



## Statement of the U.S. Chamber of Commerce

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**ON: Statement for the Record on the U.S. Environmental Protection Agency's Proposal on Federal Plan Requirements for Greenhouse Gas Emissions from Existing Electric Utility Generating Units**

**TO: U.S. Environmental Protection Agency**

**BY: Mary K. Martin  
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**DATE: November 19, 2015**

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The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America's free enterprise system.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Statement Prepared for the  
U.S. Environmental Protection Agency Public Hearing  
Washington, D.C.  
November 19, 2015

The U.S. Environmental Protection Agency's Proposal on Federal Plan  
Requirements for Greenhouse Gas Emissions from Existing Electric Generating  
Units

Mary K. Martin  
U.S. Chamber of Commerce

Good afternoon. My name is Mary Martin and I am here on behalf of the U.S. Chamber of Commerce. The Chamber is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber and its members continue to review and analyze the EPA's Clean Power Plan-related proposal on the federal plan requirements for greenhouse gas emissions from existing electric generating units, the model trading rules, and the amendments to the process for acting on Clean Air Act section 111(d) state plans under 40 CFR part 60, subpart B.

With respect to the Clean Power Plan, the Chamber certainly has concerns about the EPA's statutory and legal authority to promulgate the regulation, the impact of the Clean Power Plan on the affordability and reliability of electricity in

this country, and the feasibility and achievability of the regulation. Those concerns have been identified in comments filed during the rulemaking process, as well as recent legal challenges. As to the proposal at issue today – the federal implementation plan, the model trading rules and the changes to the 111(d) state implementation plan process – I will focus my comments on one of the areas of concern that the Chamber has, namely the burdens placed on states by this proposal and the related Clean Power Plan.

The federal regulatory burden on the states continues to grow, and in fact, has seen an unprecedented rate of growth in the last year with the EPA's finalizing of some of the most significant and sweeping environmental regulations in decades. States implement approximately **96.5%** of the environmental laws that are delegated to them.<sup>1</sup> As a result, the success of the EPA-issued rules often depends on the states. In 2013, the agency provided \$3.6 billion to the states for the administration of its programs.<sup>2</sup> Indeed, federal grants represented between 26% - 29% of the environmental budgets of the states in 2013.<sup>3</sup> The

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<sup>1</sup> See Environmental Council of the States, "E-Enterprise for the Environment, What it is, Why it Matters," available at [http://www.exchangenetwork.net/ee/EEnterprise\\_What\\_it\\_is\\_Why\\_it\\_Matters\\_July2014.pdf](http://www.exchangenetwork.net/ee/EEnterprise_What_it_is_Why_it_Matters_July2014.pdf) (July 2014).

<sup>2</sup> See EPA FY 2014 Budget in Brief, p. 87 (<http://www2.epa.gov/planandbudget/fy2014>).

<sup>3</sup> See Steven Brown, *Environmental Council of the States, ECOS Green Report, Status of State Environmental Agency Budgets, 2011-2013*, available at [http://www.ecos.org/section/green\\_reports/](http://www.ecos.org/section/green_reports/) (Sept. 2012).

bottom line: states continue to do the lion's share of the implementation of federal environmental programs without being fully compensated.

Again and as shown in the chart included in my written statement, states implement approximately **96.5%** of federal environmental programs.<sup>4</sup> This is a tremendous burden for states, particularly from a time, money and resource perspective. To add to the difficulties that states face, according to the Environmental Council of States (ECOS), states have seen a trend in declining funds from the federal government to implement these programs.<sup>5</sup> Federal budget documents confirm that the EPA's State and Tribal Assistance Grants (STAG) budget has decreased significantly in recent years.<sup>6</sup> While the largest funding source for state environmental agencies is permit fees, federal funding is the second largest source.<sup>7</sup> ECOS reports that "[d]ecreasing funds from the federal government jeopardize states' ability to implement federally delegated programs and policies."<sup>8</sup> These problems will be significantly compounded by the fact that now the states also have to administer the precedent-setting EPA Clean

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<sup>4</sup> *Id.* The chart on page 4 ("Implementation of Federal Environmental Programs") is based upon information from ECOS ([https://www.dropbox.com/s/jgdbu4rq129oexh/EEnterprise%20One%20Pager%205\\_21%20FINAL.docx](https://www.dropbox.com/s/jgdbu4rq129oexh/EEnterprise%20One%20Pager%205_21%20FINAL.docx)).

<sup>5</sup> *Id.*

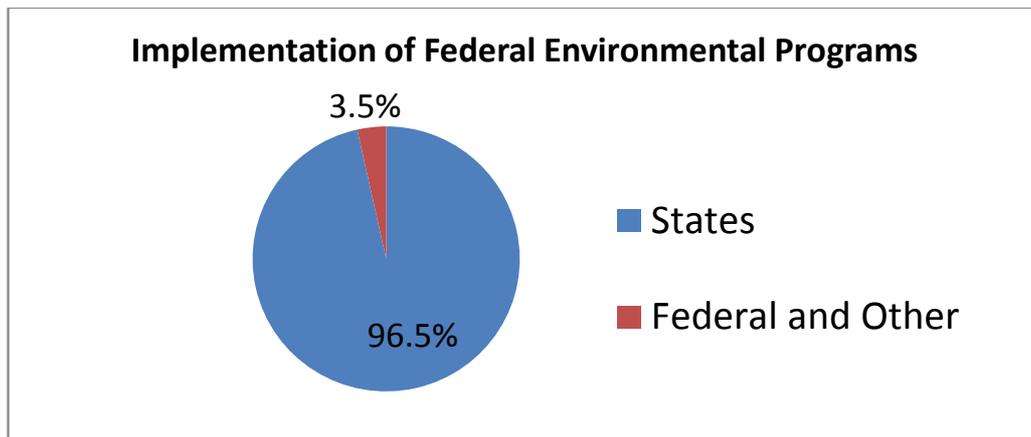
<sup>6</sup> See EPA FY 2014 Budget in Brief, p. 87 (<http://www2.epa.gov/planandbudget/fy2014>).

<sup>7</sup> See Appendix Table 1 at p. 6 in [http://www.ecos.org/files/4157\\_file\\_August\\_2010\\_Green\\_Report.pdf](http://www.ecos.org/files/4157_file_August_2010_Green_Report.pdf).

<sup>8</sup> See

[https://www.dropbox.com/s/jgdbu4rq129oexh/EEnterprise%20One%20Pager%205\\_21%20FINAL.docx](https://www.dropbox.com/s/jgdbu4rq129oexh/EEnterprise%20One%20Pager%205_21%20FINAL.docx).

Power Plan, new ozone standards, and the “Waters of the U.S.” rule *simultaneously*.



We, the regulated community, recognize and appreciate the fact that states are carrying such a huge burden and doing so with shrinking resources. Indeed, that burden is only going to grow in the future as the EPA issues more complex and costly regulations. As mentioned above, the EPA has finalized three historically significant regulations – the Clean Power Plan, the “Waters of the U.S.” rule, and the new ozone NAAQS – all within four months. This reality amounts to a sobering conclusion – EPA issues mandate after mandate on the states and the regulated community, but the states can only do so much with their limited and finite resources. As a result, states are being asked to do more

and more with less and less when it comes to implementing federal environmental programs and policies.

While the Chamber believes that the EPA has exceeded its statutory authority with the promulgation of the Clean Power Plan, to the extent the agency continues to move forward with this plan, including the proposal at issue today, it is imperative that the EPA give the states meaningful flexibility in terms of implementation and compliance. For instance, the EPA should not require a detailed filing by states seeking an extension of time to submit a state implementation plan after the September 2016 extension deadline. This proposal, plus the Clean Power Plan itself, are incredibly complex and technical materials that require an inordinate amount of time and resources for review, analysis and ultimately development of an implementation plan. The EPA has complicated matters further by proposing relevant guidance to the states but leaving key questions open for debate until being finalized in the summer of 2016. States will have little time to react to any final input by the EPA. As previously mentioned, state resources are limited and precious these days; consequently, the EPA should be reasonable and lenient in its review and approval of those extension requests.

For those same reasons, the agency also should extend the September 2016 deadline for states to submit a state implementation plan or request an extension. We suggest the deadline be extended to one year following the agency's finalizing of the model state trading rules. In addition to the reasons based upon resources and complexity, numerous states will have to undertake a legislative process in connection with their implementation of the Clean Power Plan. The timing of those legislative processes cannot be accelerated or compelled, so the EPA should give states sufficient time to let those processes run their course.

These are just a few of the Chamber's reservations with the EPA's CPP-related proposal on the federal implementation plan, the model trading rules, and the changes to the 111(d) state implementation plan process. We hope that the EPA will give full and thoughtful consideration to these concerns and suggestions. Thank you for your time and consideration today.