

June 9, 2022

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

RE: Docket No. EPA-HQ-OAR-2023-0072

Dear Administrator Regan:

Despite neither the Bipartisan Infrastructure Law nor the Inflation Reduction Act providing the Environmental Protection Agency (EPA) with any new rulemaking authority, the EPA continues to advance a radical climate agenda, much of it with insufficient opportunities for public comment and review. Specifically, on May 23, 2023, the EPA published a proposed rule to limit greenhouse gas emissions from new and existing fossil fuel-fired electric generating units which comprise about 60% of total U.S. generating capacity, without an adequate plan to replace the lost dispatchable generation.¹ At the bare minimum, the EPA has a responsibility to extend the comment period an additional 60 days to September 20, 2023 and commit to holding at least one public hearing in West Virginia.

America will not remain the superpower of the world without energy security. Since EPA published its rule, my office has heard from constituents in West Virginia, the North American Electric Reliability Corporation (NERC), grid operators, power plant operators, electric cooperatives, and other interested parties who have uniformly expressed growing apprehension that this rule could negatively impact the reliability of our nation's power grid. Just last month, before the Senate Energy and Natural Resources Committee, every Federal Energy Regulatory Commission (FERC) Commissioner agreed that we cannot eliminate coal today or in the near future if we want to have a reliable electric grid. We know for a fact that the U.S. grid would have been absolutely decimated during winter storms Uri and Elliott if our coal fleet was retired prematurely. This EPA proposal is a direct threat to our nation's energy security.

In order for stakeholders to comprehensively understand and comment on EPA's proposal and provide meaningful input to the rulemaking process, they must be given the time to adequately review the substantial amount of material that EPA released alongside its proposed rule. This includes the 181-page proposed rule itself, a 359-page regulatory impact analysis, as well as

¹ 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 FR 33240 (May 23, 2023).

several technical supporting documents that are cumulatively hundreds of pages long. Furthermore, the EPA has actively solicited feedback and comments on various topics within the proposed rule's preamble, all of which raise significant concerns about energy generation and reliability that demand comprehensive analysis.

When compared to other, similar rule proposals, this comment period is much shorter than the historic norm. In 2014, when EPA first proposed New Source Performance Standards (NSPS) for fossil fuel-fired electric generating units, it allowed for a 120-day comment period and subsequently extended for another 60 days. Similarly, when the EPA proposed emissions guidelines for existing sources later that year, the agency initially provided a 120-day comment period, which was later extended by an additional 45 days. It is important to note that these comment periods did not overlap, as the NSPS comment period concluded over a month before the comment period for the proposed emissions guidelines began. Considering the historical context, it is evident that the current proposed rule, encompassing five actions in one, necessitates a more substantial comment period than the one that EPA has provided.

For generations, West Virginia has done the heavy lifting to power our nation to greatness, and it remains a key source of dispatchable generation that provides essential reliability services that keep energy reliable, affordable, and accessible for millions of Americans. As the state with the largest percentage of coal-fired power and the second-largest producer of coal, EPA's proposal will disproportionately harm West Virginia's energy security and economy. Over the last decade, EPA regulations have contributed towards nearly 4 GW of generator retirements in West Virginia. Residents and businesses in our state deserve an opportunity to speak face-to-face with EPA about the impacts of this proposed rule and other recently-announced EPA regulations.

Government should work for the people, not the other way around. At the very least, the EPA owes the American people a fair and transparent process to ensure they understand the scope and scale of a new major federal regulation before it is thrust upon them. An extended comment period and a public hearing in West Virginia are two exceedingly reasonable requests for a proposal as ambitious and unprecedented as this, and I hope we are able to work together to make them happen. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe Manchin III", written over a horizontal line.

Joe Manchin III
United States Senator