

OFFICE OF THE GOVERNOR  
STATE OF MONTANA

GREG GIANFORTE  
GOVERNOR



KRISTEN JURAS  
LT. GOVERNOR

August 8, 2023

The Honorable Michael S. Regan  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Ave, N.W.  
Washington, D.C. 20460

RE: Proposed 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 (Clean Power Plan 2.0), Docket ID No. EPA-HQ-OAR-2023-0072.

Dear Administrator Regan:

I write to you in opposition to the Biden administration's Clean Power Plan 2.0, which would force reliable electric generation facilities to shutter at a time when our nation's electric grid is facing numerous reliability challenges. The rule targets coal and natural gas power plants that currently provide roughly 60 percent of our nation's electricity supply. I have serious concerns that the EPA has not fully considered the broad economic impacts of this rule, especially given its dubious proposed benefits, and I urge the EPA to rescind its proposal and reinstate and defend the 2019 Affordable Clean Energy Rule.

First, I join the many calls for an additional 60 days to provide public comment. Due to the scope and scale of this proposal, impacted individuals and entities should have more time to review the rule and make their voices heard.

In order to fully understand the consequences of the Clean Power Plan 2.0, it is necessary to recognize that the U.S. power grid is already facing serious reliability issues. California is so short on energy supplies that it frequently issues emergency calls to its citizens to lower their electricity use just to avoid blackouts. Texas has initiated a similar program due to resource constraints. The members of the Federal Energy Regulatory Commission, including two Biden appointees, recently opined that coal-fired power plants are essential for grid stability. It is obvious and apparent that not only do we need more energy, we also need more *reliable* energy. The Clean Power Plan 2.0 threatens to shut down approximately 25 percent of the reliable energy capacity in the country, and yet, the EPA claims it will have no impact on electric reliability. The

analytical contortions required to arrive at that conclusion are as disingenuous as they are disconcerting.

Further, the EPA did not even consider its own regulations encouraging increased electrification of the transportation industry in its analysis. The EPA's Light and Heavy-Duty Vehicle rules will drive electricity demand higher, at the same time as its Power Plan Rule will restrict electricity supply. Despite this, the EPA does not include any increased demand projections as part of its regulatory impact analysis for the current proposed rule. The EPA appears blind to the fact that its own push to electrify large sectors of the U.S. economy increases the demand for electricity from natural gas and coal. A proper regulatory impact analysis would include the projections for increased electricity demand from the EPA's own vehicle rules, and the failure to do so is a significant misstep.

Another major concern is that the EPA is once again acting beyond the authority given to it by the Clean Air Act. The EPA is required by law to show that emission reduction strategies have been "adequately demonstrated."<sup>1</sup> In order to meet this requirement, the EPA relies heavily on promising, but unproven, technologies such as carbon capture and sequestration (CCS) and fuel mixing with hydrogen. By requiring emission reductions systems to meet the "adequately demonstrated" standard, Congress wanted the EPA to propose realistic and practical solutions. Unfortunately, the EPA appears determined to act in a manner that is untethered to the economic and technological realities of today. In fact, no power plant in the world is currently meeting the 90 percent emission reductions target proposed by the EPA in the rule. Given the likelihood that this proposed rule will face numerous legal challenges and leave the country in uncertain and unpredictable regulatory limbo, I urge the EPA to rethink its approach.

Additionally, the EPA's conclusion that the Clean Power Plan 2.0 will have a negligible impact on electricity prices relies on a misguided and overly optimistic prediction that the Inflation Reduction Act (IRA) will result in significant new renewable electricity generation. According to a study by the REPEAT Project at Princeton University, without fundamental permitting reforms, IRA will fail to achieve the necessary level of renewable energy generation to keep costs in check.<sup>2</sup> This does not include the headwinds of high inflation, supply chain restrictions, and the lack of any coherent strategy to encourage domestic mineral development. Montana families need the EPA to provide a more realistic assessment of the potential costs of this rule, and the EPA should not move forward with the proposal until it provides such an assessment.

I encourage the EPA to look to the State of Montana for policies that encourage responsible energy development. With our pro-jobs, pro-business policies, we're encouraging job creators to invest in our state, help more Montanans prosper in good-paying jobs, and ultimately, unleash the full force of private sector innovation in energy development. We're also cutting red tape and creating a stable regulatory environment to support long-term investment, job creation, and growth. By lowering taxes, creating a predictable regulatory system, and emphasizing customer

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<sup>1</sup> 42 U.S.C. § 7411(a)(1)

<sup>2</sup> Findings on the Emission Impacts of the Inflation Reduction Act and the Infrastructure Investment and Jobs Act, available at: <https://repeatproject.org/reports>.

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service, we are building a cleaner, more reliable, and more affordable energy system; not only for Montana, but for the entire region.

At my direction, the Montana Department of Environmental Quality has reviewed the proposed rule and will also be submitting comments to be read and considered in conjunction with these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Gianforte", is written over a printed name and title. The signature is stylized and cursive.

Greg Gianforte  
Governor