



## NATIONAL CONFERENCE *of* STATE LEGISLATURES

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Feb. 20, 2018

The Honorable Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave N.W.  
Washington, D.C. 20460

Docket ID No. EPA-HQ-OAR-2017-0545

Dear Administrator Pruitt:

The National Conference of State Legislatures (NCSL), the bipartisan organization representing the legislatures of our nation's states, territories and commonwealths, appreciates the opportunity to provide input on the advanced notice of proposed rulemaking (ANPRM) for State Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUS).

### **Continued Consultation with States**

NCSL strongly urges the Environmental Protection Agency (the agency), if it begins a formal rulemaking process, to complete the required federalism consultation process with state governments. Additionally, we urge the agency to facilitate both formal and informal meetings with stakeholders to ensure that the agency can assess, from numerous viewpoints, various impacts of the revision of state guidelines for GHG emissions from EGUs, and to ensure that the voices and many interests across the nation play a role in the process.

It is essential that state governments, who are partners with the federal government in regulating such emissions, have a clear understanding of any and all potential changes or revisions to the CPP. As GHG emission regulation is a divisive issue across the nation, NCSL believes that early and frequent consultation can lead to a more positive outcome and better results, while also strengthening the federal, state and local government partnership.

### **Ensuring Flexibility and States Authority**

Should the agency pursue a change to current state guidelines for GHG emissions from EGUs, NCSL urges you to ensure that states are provided the authority and flexibility to work within an overall framework, and take into account state and regional differences, ensuring sufficient flexibility for each state to determine how to best achieve nationally set goals.

The final rule must continue to afford states the flexibility to form regional cooperatives and implement innovative policies that advance federal efforts. In addition, the final rule should not

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Feb. 20, 2018  
p. 2

place a limit on the diversity of technologies, as further advancements cannot be predicted and should be applied to all sources of emissions to ensure that goals are achieved in the most cost-effective, timely and efficient manner for each state.

### **Reasonable and Appropriate Timelines for State Implementation**

As EPA looks to repeal and revise the CPP, NCSL strongly urges the agency to take into account states' legislative session schedules and compliance deadlines. Notably, the implementation timeline of a rule must be compatible with state legislative calendars to ensure states have enough time to make any legislative changes needed to comply with a rule.

State legislatures' in-session dates vary significantly across the nation, and although state legislatures may hold a special session post adjournment, such sessions are often limited in scope and duration depending on the state in question. For legislatures to be able to convene a special session (in 16 states *only* the governor may call a special session), there can be significant costs to the state, which may run into tens of thousands of dollars per day. For additional information on the state legislative calendars and processes for special state legislative sessions, please visit [NCSL's website](#).

### **Extension of the ANPRM Comment Period**

EPA recently extended its comment period for its proposed repeal of the CPP to April 26, two months after the ANPRM comment deadline of Feb. 26, to allow for an additional three listening sessions due to the "overwhelming" response EPA received during its initial session. To allow ANPRM commenters to weigh in and respond to remarks made during all of the sessions, NCSL requests that EPA extend the comment period deadline for the ANPRM beyond the April 26 proposed repeal deadline.

NCSL looks forward to continuing dialogue with the agency as the regulatory process surrounding the Clean Power Plan moves forward. Please contact NCSL staff, Ben Husch ([ben.husch@ncsl.org](mailto:ben.husch@ncsl.org), 202-624-7779) and Kristen Hildreth ([kristen.hildreth@ncsl.org](mailto:kristen.hildreth@ncsl.org), 202-624-3597) with any additional questions.

Sincerely,



Representative Curt McCormack  
Vermont House of Representatives  
Co-Chair, Natural Resources and Infrastructure  
Committee, NCSL



Representative Ed Orcutt  
Washington House of Representatives  
Co-Chair, Natural Resources and Infrastructure  
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