



**KENTUCKY ASSOCIATION
OF MANUFACTURERS**

April 15, 2015

The Honorable Mitch McConnell
Senate Republican Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

Dear Senator McConnell:

On behalf of the Kentucky Association of Manufacturers (KAM), I write to thank you for the letter you recently sent to all 50 governors outlining a series of concerns we share regarding the Environmental Protection Agency's (EPA) proposed "Clean Power Plan" (CPP). We agree that Kentucky has every right to question, whether restructuring our state's energy portfolio via submitting a State Implementation Plan (SIP) under the CPP at this time is in the best interest of the Commonwealth.

KAM agrees with you that EPA lacks the statutory authority to regulate carbon dioxide emissions from existing coal-fired electric generators. Even if such authority did exist, EPA does not have the authority to dictate to states the level of emission reductions that each State must make. As you highlighted, Harvard constitutional law Professor Laurence Tribe maintains that the CPP contravenes the states' rights doctrine under the 10th Amendment to the Constitution of the United States of America. By requiring a state to submit a SIP, EPA is forcing states to be subservient to the federal government on energy policy. Additionally, and to your point, all but one of the requirements in the proposed CPP falls outside EPA's authority under the Clean Air Act. Simply put, EPA is improperly interpreting existing law to create a set of regulations that are beyond its authority.

KAM supports an "all of the above" approach to the production of cost-effective and reliable energy for our members. The proposed CPP, however, potentially takes this approach off the table and places Kentucky's, as well as America's, manufacturers at risk. The manufacturing sector in Kentucky and across the nation is a major energy consumer. Kentucky is home to particularly energy-intensive manufacturing processes including aluminum

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smelting, automobile production, appliance manufacturing, iron and steel mills, paper mills, chemical production, and glass manufacturing. According to the latest statistics published by the Kentucky Department of Energy Development and Independence, almost 96% of the Commonwealth's electricity is generated by fossil fuel-fired sources -- 92.7% was generated through coal combustion alone. The abundance, low cost, and reliability of these energy sources has allowed Kentucky manufacturers to remain competitive in the domestic and global economy. KAM is concerned that the proposed CPP could undermine the reliability of the U.S. electric grid and increase energy costs, dealing a lethal blow to the competitiveness of Kentucky's energy-intensive manufacturing sector.

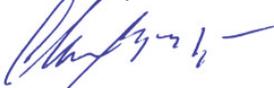
We agree that this legally questionable plan is not worth jeopardizing the tens of thousands of jobs in the Commonwealth that rely on manufacturing. EPA's current June 2016 deadline for states to develop and submit a plan would be difficult to meet. While we understand that states must begin to plan for upcoming regulatory changes, we are hesitant to support filing any plan before there is a clear ruling on the validity of the regulation.

Further, as you discussed in your letter and demonstrated on the Senate Floor during debate on the Senate Budget Resolution, EPA does not have the authority to withhold state funds— specifically state highway funds— should Kentucky be unable to submit a SIP. EPA Administrator Gina McCarthy officially confirmed her agency does not have the authority to do so following the passage of the McConnell amendment to the FY2016 Senate Budget Resolution.

As you suggest, KAM will continue to encourage Kentucky officials to act deliberately under the program and consider the negative consequences of plan development and submittal before court review of the regulation. KAM truly appreciates your leadership in Congress in the fight against EPA's overreach and for standing up for manufacturers in the Commonwealth.

If we may be of further assistance to you in this endeavor, please do not hesitate to contact us.

Sincerely,



Charles Gregory Higdon

President & CEO

Kentucky Association of Manufacturers