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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
GABRIELLE BATKIN, MINORITY STAFF DIRECTOR

January 12, 2018

Dear Administrator Pruitt:

We write in support of EPA's proposal to repeal the so-called "Clean Power Plan" (CPP), published in the Federal Register on October 16, 2017.ⁱ When President Obama finalized the CPP in 2015, we opposed it because of the pervasive, negative effects it would have had on Americans across the country. The CPP would have driven up energy prices, eliminated American jobs, and hurt local communities that depend on coal. As the figures in your proposed repeal demonstrate, the costs of the CPP would have been substantial. By repealing the rule, EPA eliminates up to \$33 billion in costs in the year 2030 alone.

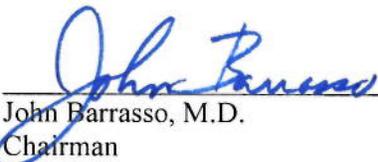
Not only is the CPP bad policy, it is unlawful. Congress did not give EPA the authority to transform our energy sector. The CPP would force coal plant closures and artificially shift electricity generation to other sources. As the Supreme Court has stated, EPA cannot "bring about an enormous and transformative expansion in EPA's regulatory authority without clear Congressional authorization."ⁱⁱ The Supreme Court "expect[s] Congress to speak clearly if it wishes to assign to an agency decisions of vast 'economic and political significance.'"ⁱⁱⁱ

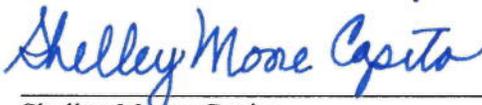
When EPA issued the CPP in 2015, the Agency asserted novel and over-reaching authority to force states into making energy choices that disadvantaged some energy sources over others. As a result, 27 states challenged the CPP in court. EPA's assertion of authority went against the basic tenets of the Clean Air Act, which gives "primary responsibility" to states in implementing the Act.^{iv} Then, in 2016, the Supreme Court halted implementation of the CPP while litigation over the rule proceeded.

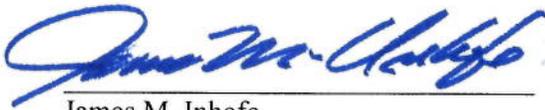
As you work to repeal the CPP, we support EPA's willingness to examine broader questions about how the federal government measures the costs and benefits of EPA regulations. According to a 2016 report by the Office of Management and Budget,^v approximately 95% of the total costs of EPA regulations are the result of regulations developed by EPA's Office of Air and Radiation (OAR). The prior administration employed accounting policies that generated outsized benefits and minimized costs to justify costly OAR rules, such as the CPP. As you have done in this proposal to repeal the CPP, EPA should continue to examine and correct those issues so that future policies are grounded on sound cost-benefit analyses.

We stand ready to assist you as you restore EPA's implementation of the Clean Air Act to its intended purpose: "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of the population."^{vi}

Sincerely,


John Barrasso, M.D.
Chairman

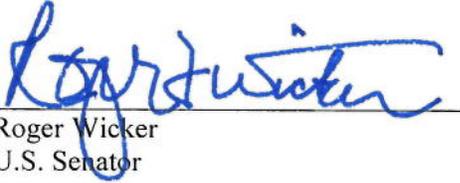

Shelley Moore Capito
Chairman
Subcommittee on Clean Air and Nuclear Safety



James M. Inhofe
U.S. Senator



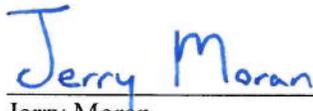
John Boozman
U.S. Senator



Roger Wicker
U.S. Senator



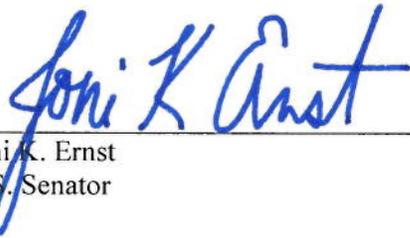
Deb Fischer
U.S. Senator



Jerry Moran
U.S. Senator



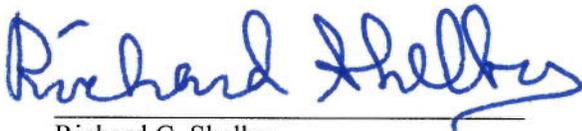
M. Michael Rounds
U.S. Senator



Joni K. Ernst
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Dan Sullivan
U.S. Senator



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ⁱ 82 Fed. Reg. 48035 (Oct. 16, 2017).

ⁱⁱ *Utility Air Regulatory Group v. EPA*, 134 S. Ct. 2427, 2444 (2014).

ⁱⁱⁱ *Id.*

^{iv} Clean Air Act § 101(a)(3).

^v Office of Management and Budget, “2016 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act” (2016).

^{vi} Clean Air Act § 101(b)(1).