

**NRECA Statement at the
EPA Public Hearing on the Repeal of the Clean Power Plan
November 28-29, 2017 - Charleston, West Virginia**

Good morning. My name is Daniel Chartier. On behalf of the National Rural Electric Cooperative Association, NRECA, thank you for the opportunity to provide this statement on the Environmental Protection Agency's proposal to rescind the Clean Power Plan. NRECA will also submit detailed written comments to the docket.

NRECA is the national service organization for more than 900 not-for-profit electric utilities that provide electricity service to approximately 42 million consumers. NRECA members own and maintain 2.6 million miles, or 42 percent, of the nation's electric distribution lines and account for 11 percent of the total kilowatt-hours in the U.S. each year. With a commitment to contribute to the vitality and prosperity of the communities served by our members, electric cooperatives are dedicated to a healthy environment, building vibrant rural communities, and providing reliable and affordable electricity to our cooperative consumer.

NRECA both unequivocally supports EPA's efforts to repeal the Clean Power Plan, and strongly encourages EPA to propose and finalize a 111(d) rule, consistent with the history of the regulation. Both actions are needed to provide America's electric cooperatives and their members with a rule that is clear and durable.

Today I'll highlight three reasons NRECA supports repeal.

First, the CPP was issued based on a novel and expansive view of EPA's authority under Section 111 of the Clean Air Act that required regulated entities to take actions "outside the fence line" of a power plant. Before this profound departure by the Obama Administration, Section 111 rules were based on measures that could be applied "inside the fence line."

In fact, before the CPP, every Section 111 rule, totaling over 100 applications, followed this requirement. The CPP egregiously stretched the statute. EPA wrote a highly unusual preemptive legal memorandum as part of the rulemaking docket. However, this departure in how the regulation was applied to power plants didn't work. As a result, the legal vulnerabilities of the

CPP led to a court challenge by 27 states, 24 trade associations, 39 rural electric co-ops, and three labor unions. In addition, a bipartisan group of 34 U.S. Senators and 171 members from the U.S. House of Representatives filed an amicus brief arguing that the CPP was illegal. Most significantly, the U.S. Supreme Court in 2016 issued an unprecedented stay of the CPP to immediately stop its implementation.

Second, the CPP violated the concept of cooperative federalism that is a bedrock principle of the Clean Air Act and section 111(d) specifically. Cooperative federalism gives states, not EPA, the authority to establish performance standards on a unit by unit basis. The CPP overturned this principle by instead mandating top down emission caps for each state. Subsequently many states would have been unable to effectively set achievable unit performance standards that, by law, must consider individual unit characteristics such as remaining useful life and other relevant unit specific factors. Further, EPA's "best system of emissions reduction" required arbitrary shifts in how electricity is produced from affordable, reliable energy sources such as coal and natural gas, to costlier, intermittent renewables. This not only upended the long-standing state autonomy for intrastate electricity matters, it also made the EPA a de facto regulator of the electricity grid, instead of the Federal Energy Regulatory Commission.

Third, the economic analysis of the CPP was highly uncertain and controversial. EPA's flawed original analysis compared the estimate of *domestic* costs of the CPP against the estimate of *global* climate benefits. In addition, billions of dollars of claimed benefits from the CPP came from "co-benefits" from the reductions other substances, such as particulate matter, that is not the actual target of the CPP. And, in violation of longstanding OMB requirements, the energy efficiency benefits of the CPP were treated as an avoided cost resulting in an artificially low estimated cost for implementing the requirements of the CPP.

We appreciate and support EPA's proposal to rescind the Clean Power Plan. Similarly, we encourage EPA to act quickly to develop a common-sense, flexible replacement rule for the Clean Power Plan that is legally defensible and that ensures the flexibility, affordability and reliability of electricity production for the Americans who depend on electric cooperatives.

Thank you.