

any existing EGU through either technological or operational processes that continuously limit the rate at which CO₂ is emitted by that source;

- b. Establishing “standards of performance for any existing” fossil fuel-fired EGUs that require the curtailment or closure of affected facilities and replacement of their generation by EPA-preferred sources such as wind, solar, geothermal, and hydroelectric power, rather than relying on feasible improvements in emissions performance of existing fossil fuel-fired EGUs;
- c. Defining the “best system of emission reduction” for existing fossil fuel-fired EGUs to include measures that cannot be implemented at the sources themselves or that impermissibly require construction of new sources;
- d. Subjecting existing fossil fuel-fired EGUs to performance rates under Section 111(d) that are more stringent than the concurrently-finalized performance standards under Section 111(b) for new sources in the same category; and
- e. Depriving States of their authority under Section 111(d)(1), “in applying a standard of performance to any particular source ... to take

into consideration, among other factors, the remaining useful life of the existing source to which such standard applies.”

3. Whether EPA has the authority to force States to transform their energy economies to favor only certain sources of electricity, under the guise of regulating power plants under CAA § 111(d), 42 U.S.C. § 7411(d).
4. Whether EPA’s threat that it will seize control over the States’ energy economies if they do not submit state plans violates the States’ rights under the Tenth Amendment and the Federal Power Act, 16 U.S.C. § 824(a).
5. Whether the Rule impermissibly intrudes on the exclusive authority of the Federal Energy Regulatory Commission to regulate the interstate electricity market.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of December, 2015, one copy of the foregoing Nonbinding Statement of Issues was served upon all counsel of record through this Court's CM/ECF system.

/s/ Peter S. Glaser
Peter S. Glaser