Mississippi Manufacturers Association

July 30, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy:

The Mississippi Manufacturers Association (MMA) represents over 2,000 manufacturing companies and affiliated businesses in the State of Mississippi. Among its members are a number of the significant generators and consumers of electric power within the state. All of our members are concerned that EPA's proposed rule, which would institute a new regulatory framework on Mississippi and other states that would transform how electricity is generated, distributed, transmitted and used, could eliminate the critical competitive advantage that affordable and reliable electricity provides to the American economy.

Although MMA will continue to review EPA's proposal and to submit additional comments if permitted, it is already clear to us that the proposal will be disruptive to and is fundamentally incompatible with numerous practical and technical aspects of the electricity system in Mississippi and all other states. It is evident that the proposal is based on a flawed interpretation of the Clean Air Act. We therefore urge EPA to withdraw the current proposal and substantially revise this rule. In the meantime, we want to highlight five high-level issues that are representative of our more detailed objections to EPA's proposal.

1. **Electricity price increases and economic impacts.** While EPA's proposal must be thoroughly and independently analyzed to better understand its costs and electricity market implications, it is clear that the rule presents a significant threat to American jobs and the economy. EPA itself estimates that its rule will increase electricity prices between 6 and 7 percent nationally in 2020, and up to 12 percent in some locations. These increases will place a heavy burden on businesses in Mississippi and across the U.S. for which affordable energy provides a critical operating advantage in competitive global markets. This is particularly true for MMA members who are energy-intensive and trade-exposed industries.

2. **Rule Structure and Scope.** EPA is pursuing a regulatory standard on one industry source (fossil-fuel power plants) based on potential actions taken well beyond the source's physical location and controlling authority, and in many cases by entities that are not directly subject to regulation under Section 111 of the Clean Air Act. This structure raises significant legal and practical questions regarding the viability of the rule. EPA has to date failed to answer such questions, and has provided little to no information regarding what authority it is relying upon to institute such an expansive regime, and how it intends to proceed if it does not approve of individual state implementation plans. This is critical information that EPA should disclose in the interest of maximizing transparency and continued cooperation with states and stakeholders.

3. **Technological achievability.** As noted above, EPA has asserted that each of the individual targets assigned to states under EPA's proposed regulations are based on "reasonably achievable rather than maximum..."
performance levels.” MMA is concerned that, as with its proposed rule for new power plants, EPA is basing enormously impactful mandates on technology assumptions that have yet to be demonstrated as achievable at a reasonable cost and in some cases achievable at any cost. Detailed analysis must be undertaken by EPA and made available to the public.

4. **Follow-on Regulations.** EPA’s proposed regulation for power plants is only the first step of the Administration’s broader greenhouse gas regulatory agenda. As the agency has committed to a number of follow-on rules, MMA members will be impacted twice—both as electricity customers and also as industries “next in line” for subsequent rules that EPA has committed to pursuing. For example, last month EPA proposed new rules restricting emissions from municipal landfills, and the agency’s current budget request to Congress notes it will soon begin considering new greenhouse gas (GHG) regulations on the following sectors: refineries, pulp and paper, iron and steel production, livestock operations, and cement manufacturing. The substance, process, and ultimate outcome of the initial proposed regulations on power plants are certain to influence the regulations that will be subsequently proposed.

5. **Process and timeline.** As stated earlier, states and stakeholders continue to struggle to interpret and react to the rule’s more than 1,600 pages of highly technical materials. Despite this ongoing confusion, and despite EPA’s repeated emphasis on responding to stakeholder concerns and ensuring a robust and transparent public deliberation process, the agency has scheduled public hearings in only four locations, and has provided few if any opportunities for stakeholders and other interested parties to publicly ask the agency direct questions regarding the design and potential impacts of its rule. Our concerns with these limited opportunities for open and interactive communication with the agency are compounded by what appears to be a rushed regulatory implementation timeline. A regulation as complex and far-reaching as the one proposed must prioritize a robust, inclusive rulemaking process over meeting arbitrary and rushed deadlines.

MMA recognize that addressing each of these significant issues will require substantial time and effort of the EPA, states, and stakeholders alike. However, as a first step, we respectfully ask that EPA take two critical actions to enhance the public involvement process associated with this rule:

1. We request that EPA hold additional public hearings on the rule in order to enable a greater number of citizens and stakeholders representing a broader range of viewpoints and geographic locations to provide input on the rule. Further, and perhaps most important, we ask that at least some component of these public meetings be interactive, so impacted stakeholders can ask EPA direct questions regarding the intent and implications of its proposed rule. Such a format will help bring clarity to an immensely complicated regulatory proposal, and greatly enhance the public-private and federal-state cooperation that you have emphasized are essential to the success of the rule.

2. We request that EPA extend the currently-planned 120-day comment period by at least 60 days to ensure that affected stakeholders have sufficient time to assess the rule and consider feedback provided at the forthcoming public hearings.

We appreciate the opportunity to provide these comments and stand ready to work cooperatively to ensure EPA’s proposed regulation addresses these critical issues.

Sincerely,

[Signature]

Jay C. Moon, CEcD, FM, HLM
President and CEO