

**Opening Statement of Mary Nichols
Chairman of the California Air Resources Board**

**Hearing on EPA's Proposed Clean Power Plan
Committee on Environment and Public Works
United States Senate**

March 11, 2015

Chairman Inhofe, Ranking Member Boxer, Members of the Committee, thank you for inviting me today. I am Mary Nichols, Chairman of the California Air Resources Board. I am honored to be here to support EPA's proposed Clean Power Plan, which will unlock state innovation all across the country to protect our people, and grow our economies. The framework proposed by EPA is a workable, practical plan that will cut carbon pollution, with a focus on increasing energy efficiency and the use of cleaner, domestic energy sources. It provides an opportunity for a better future.

That is the future we are creating in California. Our success story has been bipartisan. The California Global Warming Solutions Act was signed by our Republican former Governor Schwarzenegger and our Democratic Governor Jerry Brown has placed climate change at the core of his agenda, championing our enormously successful carbon market, ramping up green energy programs, and working nationally and internationally to spread solutions. Californians overwhelmingly support our Board's efforts to move California toward cleaner and more efficient sources of energy and to address the grave threat global warming poses to America and to the world. I am here today to share some of our successes with you, and to emphasize that EPA is using its Clean Air Act authority just as it should: To spread success stories across the country, and to encourage each state to develop its own plan to cut carbon pollution and grow its economy.¹

The Clean Air Act's Successful State/Federal Partnership

Let me begin by emphasizing that the Clean Air Act is the right tool to use in this effort, as the Supreme Court has recognized.² More than forty years ago, with the passage of the Act, Congress recognized that the states have the primary role in fighting air pollution.³ Under the Act's system of cooperative federalism, EPA sets goals and targets in accordance with the best science, and the states

¹ California's more formal comments on the Clean Power Plan can be found at <http://www.arb.ca.gov/cc/powerplants/ca-comments-2014-clean-power-plan.pdf>.

² See *Utility Air Regulatory Group v. EPA*, 134 S.Ct. 2427, 2441 n.5 (2014) (citing *American Electric Power Co. v. Connecticut*, 131 S. Ct. 2527, 2537 (2011)). See also *Massachusetts v. EPA*, 549 U.S. 497 (2007).

³ 42 U.S.C. §7401(a).

are charged with developing creative plans to achieve those goals. That collaboration has slashed air pollution and delivered literally trillions of dollars of public health and other economic benefits: more than \$40 in benefits for every dollar in costs.⁴ In California – though we have more work to do – we have seen our air quality improve dramatically, even as our economy has boomed and we have added millions of residents. Simply put: the Clean Air Act partnership between EPA and the states works.

The Clean Power Plan Will Extend These Successes – Despite Myths to the Contrary

The Clean Power Plan is firmly rooted in this successful tradition. If anything, it is rather a modest step forward – California is already taking more aggressive action to reduce emissions than the Plan requires – but it is plainly a necessary one. The fact is that the Clean Power Plan is among most flexible environmental measures in US history. EPA has set its state targets based upon effective policies already in use in the states, and has given the states wide discretion on how best to achieve them. Still, we hear what start as legitimate questions from state governments and local utilities blown up into manufactured myths. Let me address four of the most prevalent red herrings.

First myth: There has been much misplaced invective over the Plan’s electric system reliability impacts. We have heard this before, because the polluters’ pollsters tell them that what will grab the public’s attention is the threat that the lights will go out. But time and again, this threat has proven to be overblown. In fact, state air regulators can be expected to design their compliance plans in coordination with their energy agency partners, and have more than a decade to fine tune plan implementation. They have the time and expertise to design and operate workable plans. Federal partners, including the EPA, the Federal Energy Regulatory Commission, and the Department of Energy will work with states to make sure pollution reductions are delivered while enhancing reliability. California’s own experience making significantly deeper carbon cuts than EPA is likely to require demonstrates that new, clean, generation and modernized infrastructure will not only maintain but improve system reliability. In light of this experience, it should be unsurprising that a well-respected consultancy has just found that the Clean Power Plan can be implemented consistent with reliability needs through the careful work of state planners.⁵

⁴ See Remarks by EPA Administrator Lisa P. Jackson on the 40th Anniversary of the Clean Air Act (Sept. 14, 2010); US EPA, *The Benefits and Costs of the Clean Air Act from 1990 to 2020* (Mar. 2011); US EPA, *The Benefits and Costs of the Clean Air Act, 1970 to 1990* (1997).

⁵ See The Brattle Group, *EPA’s Clean Power Plan and Reliability* (2015), available at: <http://info.aee.net/brattle-reliability-report>.

Second, some have argued that EPA is somehow usurping the state's role in setting energy policy. Not so: EPA is regulating the emissions from power plants, just as Congress and the Supreme Court have told it to do. EPA is not requiring the states to adopt any particular energy policies or programs. Instead, states may choose to take advantage of renewable energy and energy efficiency as one possible way to support emission reductions. Nothing in the Clean Power Plan requires that those policies, if selected, come directly under EPA's ambit: the truth is that the agency is considering state plan designs that draw clear dividing lines between air and energy programs – including a “state commitment with federal backstops” approach under which states air regulators could take credit for energy program-linked emission savings, without putting those programs in their federal climate plans.⁶ California defends its state energy and climate prerogative as zealously as the next state, and we believe that states can comply with the Clean Power Plan without surrendering any authority over their energy programs to the federal government.

Third, we've heard some say that it is too hard for states to work together under the Clean Power Plan. But the benefits of regional cooperation are enormous – after all, the grid already ties us all together. EPA itself forecasts billions of dollars in savings from regional planning,⁷ as do at least two major grid operators,⁸ and EPA is eager to help states work together. In particular, EPA has heard from many of us that states will explore “modular” regional planning – looking for bilateral deals and ways to coordinate our plans, without necessarily constructing one unified regional structure right out of the gate. In the West, for instance, we participate in a regional collaborative discussion that connects a truly diverse set of states – with a wide range of views on EPA's proposal -- in a shared “no regrets” effort to investigate our options.⁹ State regulators are pragmatic types, and we are ready to work together to find opportunities to build our economies and protect our climate.

Fourth, and last, some have recently argued that states should simply refuse to submit compliance plans, and let EPA impose federal plans. That is terrible advice. Although I am certain that EPA will do its best to develop a workable federal plan, no state should pass up the chance to chart its own course. State regulators are best placed to develop plans that work for their people. Although

⁶ See 79 Fed. Reg. at 34,902.

⁷ *Id.* at 34,943.

⁸ See MISO, *Carbon Analysis* (2014) (forecasting billions of dollars in annual compliance cost savings from regional planning), available at: <http://www.misomtep.org/carbon-analysis/>; and PJM, *PJM Interconnection Economic Analysis of the EPA Clean Power Plan Proposal* (2015) (also forecasting regional compliance to produce substantial savings), available at: http://www.eenews.net/assets/2015/03/04/document_ew_01.pdf.

⁹ Much of this conversation is coordinated by former Colorado Governor Ritter's Center for the New Energy Economy. See <http://cnee.colostate.edu/p/clean-air-act->

some states may also wish to challenge aspects of EPA's rule, litigation alone is not a compliance plan. Instead, it is a recipe for higher costs and missed investments. I am confident that not only can all states find ways towards a cleaner energy future, all states should seize the chance to design the best futures for themselves.

A Better Future

The Clean Power Plan will help unlock a better future for all of us, if we are willing to work together. In California, our Board, the Public Utilities Commission, the Energy Commission, and the Independent System Operator are working together with our energy sector to cut emissions. We are delivering – with an economy-wide carbon market, with aggressive renewable energy targets, and with an energy efficient economy.¹⁰ We are on track for a third of our state's energy needs to be met by renewable energy by 2020,¹¹ and Governor Brown has established a goal of getting 50% of our energy from renewable sources by 2030. Our economy wide carbon intensity has already fallen by nearly 5% just since 2009, and it will keep falling.¹² And we are prospering: As our carbon market has gone into operation, jobs grew by 3.3% -- outpacing the rest of the country.¹³ Personal income and wages are up – again growing at rates well above the national average.¹⁴ Our electric power grid delivers power reliably, resiliently, and efficiently thanks to the continued stewardship of our transmission operators.¹⁵ And power bills are down: Californians pay the ninth-lowest electricity bills in the country.¹⁶

States all across the country, with a wide range of political priorities, are discovering that clean energy pays big dividends. Oklahoma, for instance, is on track to exceed its 15% renewable energy target for 2015 thanks to its successful wind energy industry¹⁷ -- a policy that has yielded billions of dollars in investments in the state,¹⁸ and helped cut air pollution. And, of course, states like California and Oklahoma aren't alone: Texas leads the nation in wind energy, many states in the Midwest, West,

¹⁰ See Public Policy Institute of California, *Climate Change* (Feb. 2015) (summarizing California policies), available at: http://www.ppic.org/content/pubs/report/R_215EHR.pdf.

¹¹ California Air Resources Board, *First Update to the Climate Change Scoping Plan* (2014) at ES 2, available at: <http://www.arb.ca.gov/cc/scopingplan/document/updatedscopingplan2013.htm>.

¹² *Id.* at ES3.

¹³ Environmental Defense Fund, *Carbon Market California* (2014) at 5, available at: http://www.edf.org/sites/default/files/content/carbon-market-california-year_two.pdf.

¹⁴ *Id.*

¹⁵ See California Independent System Operator, *What Are We Doing to Green the Grid?* (2014), available at: <http://www.caiso.com/informed/Pages/CleanGrid/default.aspx>

¹⁶ *First Update to the Climate Change Scoping Plan* at 27-28.

¹⁷ Energy Information Administration, *Oklahoma State Energy Profile* (2014).

¹⁸ American Wind Energy Association, *Oklahoma Wind Energy* (2014).

and South are avoiding the ratepayer and reliability risks of dirty and inefficient coal plants by replacing them with cleaner power, and energy efficiency investments are cutting power bills in dozens of states.

The Clean Power Plan is designed to encourage states to take broader advantage of strategies that are already saving money and invigorating economies across the country. The result, EPA estimates, will be net benefits of between 48 and 82 billion dollars in 2030.¹⁹ Those benefits represent many lives saved, sick days avoided, and climate risks abated – as well as greater productivity, lower costs, and a more efficient and secure energy system.

Conclusion

The bottom line is that the Clean Power Plan builds on more than forty years of Clean Air Act success. Climate change now confronts us with both an enormous challenge and an enormous opportunity for creating new jobs and increased energy security nationwide. EPA has, sensibly, turned to the states – not Washington, DC, alone – to lead the way. We are ready, and willing, to do so.

¹⁹ 79 Fed. Reg. 34,830, 34,9943 (June 18, 2014).