

FRED UPTON

6TH DISTRICT, MICHIGAN

COMMITTEE ON ENERGY AND COMMERCE

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ENERGY AND ENVIRONMENT
RANKING REPUBLICAN MEMBER
COMMUNICATIONS, TECHNOLOGY,
AND THE INTERNET



Congress of the United States
House of Representatives

December 3, 2010

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Administrator Jackson:

I understand that the U.S. Environmental Protection Agency (EPA) may soon issue a revised proposed rule governing cooling water intake structures at existing electric generation and manufacturing facilities. Given that this rulemaking has the potential to affect more than 400 power plants throughout the country and could impact energy supply and reliability, I am concerned about the direction of the proposal and its timing.

The potential retrofit costs could be substantial (\$200-300 million per unit for coal and \$700 million to \$1 billion for nuclear power plants) and some coal steam generators may not have the space necessary for the installation of cooling towers and other associated equipment. This could result in the retirement of some of these generators.

As such, I am writing to ask that you provide me with information by December 16th regarding the status of the proposed rule and the anticipated timing of a proposed and final rule. If recent trade press reports are correct, the Agency intends to take more time in developing a proposed rule. I believe that this would be a sound decision, and support EPA taking the time it needs to collect, analyze and consider the data and information necessary to produce a well-reasoned, well-supported proposal. Additionally, any regulation of this size should be subject to full congressional oversight and review.

In the interest of greater transparency, I urge you to make sure that all supporting information – including technical documents clearly describing the analyses and assumptions on which EPA will rely and the underlying non-CBI data – be made available as soon as any comment period begins. I also ask that you allow sufficient time at the outset for the public to digest and prepare comments on the rule. I suggest 180 days as the minimum time necessary for a rule of this magnitude.

I urge the Agency to resist any pressure it may face to establish an abbreviated schedule for review of public comment on the proposed rule, preparation of a final rule and interagency review. I am concerned that such an approach would not lend itself to the publication of a sound final rule.

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I further caution the Agency against finalizing a settlement agreement that does not provide EPA with the timing and flexibility to craft a sound rule that avoids unintended adverse consequences to the environment, energy supply and reliability that a one-size-fits-all technology mandate would create.

Thank you for your personal attention to this important matter. I look forward to your response by December 16th.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Fred Upton', with a long horizontal flourish extending to the right.

Fred Upton
Member of Congress