



Today, EPA officially published the [Clean Power Plan](#), the agency’s proposed rule to regulate power plant greenhouse gas emissions under Clean Air Act § 111(d), initiating a public comment period that will close on **December 1, 2014**.

I have taken this as an opportunity to compile all of the various LegalPlanet resources on regulation of greenhouse gases under 111(d) below, along with some critical EPA resources and other valuable analyses. Happy commenting!

## **EPA RESOURCES**

[Proposed 111\(d\) rule text](#) (79 Fed. Reg. 34829) - the published text of the proposed rule and information about submitting public comments.

[EPA Rulemaking Docket No. EPA-HQ-OAR-2013-0602](#) - summaries of the rulemaking, reviews, and timelines.

[Clean Power Plan Toolbox for States](#) - EPA resources on state plan development, including technical support documents for the proposed rule, fact sheets, and technical resources.

[Information on President Obama’s Climate Action Plan](#)

[Overview Presentation](#) - designed to provide the public general information about section 111 and the Clean Power Plan **(VIDEO)**

[Webinar Series](#) - three webinars designed to provide state and tribal regulators with detailed information about the Clean Power Plan; topics include *Setting State Goals*, *Meeting State Goals*, and *Implementation*. **(WEBINARS)**

[EPA Administrator Gina McCarthy’s announcement of proposed rule](#) **(VIDEO)**

[EPA’s “whiteboard” explanation of the proposed rule \(VIDEO\)](#)

[President Obama’s address regarding the proposed rule \(VIDEO\)](#)

## **LEGAL PLANET RESOURCES**

### **PROPOSED RULE SUMMARY AND ANALYSIS**

[EPA Releases Section 111\(d\) Rule for Existing Power Plants](#) (Megan Herzog) - *Initial summary of the proposed rule and its key features.*

[EPA to Release Proposed Rule for Existing Power Plants under Clean Air Act 111\(d\) that Cuts Carbon Emissions 30% from 2005 Levels by 2030](#) (Megan Herzog) - *Providing context for the 111(d) proposed rule, including background information about the Clean Air Act, major legal questions, and the positions of key stakeholders.*

[A Roadmap for State Comments on the Clean Power Plan](#) (Megan Herzog) - *Considerations for state regulators preparing comments to EPA.*

[EPA’s Proposed 111\(d\) Rule: Some Insights & Open Legal Questions](#) (Megan Herzog) - *A series of four posts offering some initial insights and observations, and posing several open legal questions for conversation.*

- [Part I](#) - *making some big-picture observations about EPA’s proposed rule, and discussing the legal vulnerability of a rate-based vs. a mass-based standard; the role of nuclear power, PUCs, and RTOs; and various enforceability challenges.*
- [Part II](#) - *discussing EPA’s determination of the best system of emission reduction (BSER) and calculation of state goals.*
- [Part III](#) - *discussing some of the ways the rule may interact with existing greenhouse gas cap-and-trade programs and facilitate new regional collaborations.*
- [Part IV](#) - *discussing next steps and a variety of odds and ends, including forthcoming guidance, timelines, and electricity imports.*

[EPA’s Proposed Greenhouse Gas Emissions Rules Are Remarkably Business-friendly](#) (Ann Carlson) - *Emphasizing that the proposed rule is remarkably business- and market-friendly.*

[The Top 10 Reasons Why EPA’s Powerplant Rule is like Obamacare](#) (Dan Farber) - *A list*

*of similarities between EPA’s proposed rule and Obamacare.*

[California, climate change, and 111d](#) (Cara Horowitz) - *Illuminating four aspects of the 111(d) proposal that are of particular note to California.*

## **CURRENT & POTENTIAL LEGAL CHALLENGES**

[Breaking News: D.C. Circuit Dismisses Challenge to Clean Power Plan on Procedural Grounds](#) (Ann Carlson) - *Describing the court’s dismissal of the first legal challenge to the proposed Clean Power Plan as premature*

[The Legal Basis for the 111\(d\) Rule](#) (Dan Farber) - *Describing how EPA has structured the rule to protect against legal challenges.*

[Has EPA’s Proposed NSPS Expired?](#) (Megan Herzog) - *Responding to claims that EPA must withdraw its proposed NSPS and Clean Power Plan*

[Industry Will Try to Keep the Clean Power Plan from Taking Effect Pending Court Decision on Its Legality](#) (Ann Carlson) - *Describing industry efforts to stay implementation of the rule pending its validity*

[Guess What? The Clean Power Plan Isn’t Going to Destroy America After All](#) (Dan Farber) - *Arguing that 111(d) compliance will not be a significant burden*

[MATS Rules Declared Invalid in Michigan v. EPA, 5-4](#) (Ann Carlson) - *Assessing the potential impact of the Supreme Court’s Decision in Michigan on future challenges to the Clean Power Plan*

[Guest Blogger Kate Konschnik: EPA’s 111\(d\) Authority - Follow Homer and Avoid the Sirens](#) - *Discussing how EPA can reconcile a conflict in the 1990 Clean Air Act Amendments to justify regulating GHGs from the power sector.*

[Obamacare’s lessons for the future of EPA’s CO2 rule](#) (Dan Farber) - *Musing about the long-term future of the proposed rule, assuming it survives the inevitable legal challenges.*

[The Case Against Sulking](#) (Dan Farber) - *Discussing states that may refuse to submit implementation plans.*

[Is Lawrence Tribe a Sellout?](#) (Jonathan Zasloff) - *Probing the motivations behind*

*Professor Tribe’s arguments against the Clean Power Plan.*

[Larry Tribe Smacked Down](#) (Ann Carlson) - *Reviewing academic critiques of Professor Tribe’s arguments against the Clean Power Plan*

## **RELATIONSHIP OF THE 111(d) RULE & UARG v. EPA**

[UARG Decision — Due Any Day Now — Should Not Undermine the Legality of CAA Section 111d Rules](#) (Ann Carlson) - *Speculating that a decision in UARG v. EPA upholding the rules at issue will help EPA in any legal challenge to the Section 111(d) rules, but a decision striking down the rules will not have much effect.*

[Judicial “Smoke Signals” and the 111\(d\) Rule](#) (Dan Farber) - *Discussing how the Supreme Court’s decision in the pending UARG v. EPA case might affect the final 111(d) rule.*

## **111(d) REGULATION IN THE BROADER CONTEXT OF THE CLEAN AIR ACT**

[Obama’s Clean Air Act 111d Rules Are Legally Required, Not an End Run Around Congress](#) (Ann Carlson) - *Illustrating the historical and legal factors compelling EPA to regulate stationary sources of greenhouse gases under section 111.*

[The Significance of EPA’s Proposed Power Plant Standards](#) (Dan Farber) - *Discussing the relationship between EPA’s proposed rule for new power plants under 111(b) and its proposed rule for existing power plants under 111(d).*

[Time May Run Out on Obama’s Most Powerful Climate Change Tool, Environmental Groups Threaten Suit](#) (Ann Carlson) - *Describing environmental groups’ notice of intent to sue the Obama Administration over greenhouse gas rulemaking delays, and discussing the potential impact of those delays on section 111 rules.*

[The Legal Underpinnings of EPA’s Climate Rules](#) (Dan Farber) - *Describing various Clean Air Act provisions that allow EPA to regulate greenhouse gases, including section 111.*

[Lots of Rhetoric, Not Much New in Obama’s Climate Plan](#) (Ann Carlson) - *Discussing the relationship between Obama’s Climate Action Plan and section 111 regulation.*

## **OTHER LEGAL PLANET RESOURCES**

[Legislative Tantrums Over EPA’s Proposed Carbon Rule](#) (Dan Farber) - *Critically responding to the eight state legislatures that have passed bills protesting EPA’s proposed power plant regulation.*

[Obama’s Section 111d Plan Has Support From George H.W. Bush’s EPA General Counsel, Utility Executives](#) (Ann Carlson) - *Discussing positive comments from E. Donald Elliott, the EPA General Counsel from 1989-91 under the first President Bush, about regulation of greenhouse gases under 111(d).*

[What EPA should do with its delayed performance standards for GHGs](#) (Rhead Enion) - *Exploring two possibilities for the 111(d) rule: (1) EPA could implement a national trading program, or (2) EPA could allow states—such as California—to use a trading program to meet their Section 111(d) requirements.*

## **SOME OTHER ANALYSES OF THE CLEAN POWER PLAN**

- [Center for Clean Air Policy](#)
- [Georgetown Climate Center](#)
- [NRDC](#)
- [William Buzbee \(Center for Progressive Reform/Emory\)](#)
- [David Hawkins \(NRDC\)](#)
- [Nathan Richardson \(Resources for the Future\)](#)
- [Michael Wara \(Stanford\)](#)
- [Resources for the Future \(ARCHIVED WEBINAR\)](#)