

Advocacy Recommend that EPA Re-Propose a Federal Plan for Implementation of the Clean Power Plan and Supplement the IRFA for Each State that Doesn't Submit an Acceptable Plan to Implement the Clean Power Plan

On December 21, 2015, the Office of Advocacy (Advocacy) filed a public comment letter with the U.S. Environmental Protection Agency (EPA) regarding its proposed rule, “Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations.” A complete copy of Advocacy’s letter is available on its [website](#).

- On October 23, 2015, EPA issued a proposed federal plan and model trading rules to implement the Clean Power Plan.
 - A federal plan is required only in those states that do not submit an acceptable state plan to implement the Clean power Plan. For that reason, EPA proposed options for potential federal plans but does not know which states will require federal plans.
 - EPA’s analysis of the federal plan assumes a uniform 50-state federal plan under two different scenarios.
- EPA convened a small business review panel under the Small Business Regulatory Enforcement Fairness Act of 1996, and prepared an Initial Regulatory Flexibility Analysis (IRFA).
 - Advocacy wrote to EPA on May 8, 2015, stating that the information available to the small entity representatives and the panel members would make it difficult to identify reasonable regulatory alternatives for small entities.
 - The panel completed its recommendations to the EPA Administrator 3 days before the EPA Administrator signed the proposed rule and IRFA.
- Small entities face significantly different circumstances across the country. These differences, combined with uncertainties about neighboring state implementations of the Clean Power Plan, mean that the proposed rule and IRFA prepared by EPA lack the information necessary for small entities to evaluate the likely impacts on their operations or reasonable regulatory alternatives for a federal plan in each separate state.
- Advocacy strongly recommends that, for each state that does not submit an acceptable state implementation plan for the Clean Power Plan, EPA re-propose a federal plan and develop a supplemental IRFA to aid small entities in the understanding of issues unique to their business, state and region

For more information, visit Advocacy’s Web page at <http://www.sba.gov/advocacy>, or contact Assistant Chief Counsel David Rostker by email at david.rostker@sba.gov or by phone at 202-205-6966.