

# ADMINISTRATIVE WATCH

ADDRESSING ENVIRONMENTAL, ENERGY AND NATURAL RESOURCE ISSUES



**Babst Calland**  
Attorneys at Law

[babstcalland.com](http://babstcalland.com)

**Pittsburgh, PA**

Two Gateway Center  
603 Stanwix Street  
Sixth Floor  
Pittsburgh PA 15222  
412-394-5400  
FAX 412-394-6576

**State College, PA**

Suite 302  
330 Innovation Blvd.  
State College, PA 16803  
814-867-8055  
FAX 814-867-8051

**Charleston, WV**

Suite 590  
United Center  
500 Virginia Street East  
Charleston, WV 25301  
681-205-8888  
FAX 681-205-8814

**Sewell, NJ**

380-A Tylers Mill Road  
Sewell, NJ 08080  
856-256-2495  
FAX 412-586-1082

## EPA Proposes Regulation to Cap Carbon Emissions From New Electric Generation Units

On March 27, 2012, EPA Administrator Lisa Jackson signed a Proposed Rule to establish New Source Performance Standards for emissions of Carbon Dioxide (CO<sub>2</sub>) from new affected fossil fuel-fired electric generating units (EGUs). The Proposed Rule is due, in part, to the U.S. Supreme Court's 2007 opinion in *Massachusetts et al. v. Environmental Protection Agency* and the EPA's subsequent 2009 "endangerment" finding.

The Proposed Rule would apply to EGUs that commence construction after publication of the Proposed Rule in the *Federal Register*. More specifically, the Proposed Rule would require "new fossil fuel-fired EGUs greater than 25 megawatt electric (MWe) to meet an output-based standard of 1,000 pounds of CO<sub>2</sub> per megawatt-hour (lb CO<sub>2</sub>/MWh) . . . ." EPA reports that this standard is "based on the performance of widely used natural gas combined cycle (NGCC) technology." EPA opines that, even without the Proposed Rule, no new coal-fired EGUs will be constructed through 2030 without "Carbon Capture and Storage" (CCS) technology.

EPA states that new coal-fired or pet coke-fired units could meet the standard by either employing CCS to approximately 50 percent of the CO<sub>2</sub> in the emissions at startup, or through later application of CCS to meet the standard over a 30-year period. The Proposed Rule would not apply to existing EGUs whose CO<sub>2</sub> emissions increase as a result of installation of pollution controls for conventional pollutants, or to proposed EGUs that have acquired a complete preconstruction permit by the publication date of the Proposed Rule and commence construction within 12 months of the publication.

Comments on the Proposed Rule will be due 60 days after publication in the *Federal Register*. The pre-publication copy of the Proposed Rule is available online at <http://epa.gov/carbonpollutionstandard/pdfs/20120327proposal.pdf>.

If you have any questions regarding the Proposed Rule, please contact Donald C. Bluedorn II at 412-394-5450 or [dbluedorn@babstcalland.com](mailto:dbluedorn@babstcalland.com) or Matthew S. Casto at 681-205-8950 or [mcasto@babstcalland.com](mailto:mcasto@babstcalland.com).