

**Clean Power Plan—Authority of the Secretary of Health and Environment;
Memorandum of Understanding Between the Secretary of Health and
Environment and the KCC; Clean Power Plan Implementation Study
Committee; Submission of a Plan to the Committee and to the U.S.
Environmental Protection Agency; HB 2233**

HB 2233 establishes the procedure for developing and submitting a state plan (Plan) to the federal Environmental Protection Agency (EPA) to comply with the proposed federal Clean Power Plan (CPP) rule.

Authority of the Secretary of Health and Environment

The bill authorizes the Secretary of Health and Environment (Secretary) to develop and submit a Plan to the EPA for compliance with the requirements of the proposed federal CPP rule.

The Secretary is authorized to implement the Plan through flexible regulatory mechanisms, including the averaging of emissions, emissions trading, or other alternative implementation measures that the Secretary determines to be in the interest of Kansas.

The Secretary also may enter into voluntary agreements with utilities that operate fossil-fuel-based electric generating units with Kansas to implement these carbon dioxide emission standards. The agreements may aggregate the carbon dioxide emissions levels from electric resources in the state, including coal, petroleum, natural gas, or renewable energy resources as defined in statute that are owned, operated, or utilized by power purchase agreements by utilities for purposes of determining compliance with the carbon dioxide emission standards.

MOU—Secretary of Health and Environment and the Kansas Corporation Commission

The Secretary and the Kansas Corporation Commission (KCC) are required to enter into a memorandum of understanding (MOU) concerning implementation of the requirements and responsibilities under the Kansas Air Quality Act.

Clean Power Plan Implementation Study Committee

The bill creates the Clean Power Plan Implementation Study Committee (Committee), which will hold informational hearings and receive updates from the Kansas Department of Health and Environment (KDHE), KCC, and the Attorney General about the implications of the adoption of a Plan for the CPP. The Committee will be made up of 11 voting members:

- Five members from the Senate Committee on Utilities, including:
 - Chairperson;
 - Vice-chairperson;

- Ranking Minority Member; and
- Two others appointed by the President of the Senate;
- Six members from the House Committee on Energy and Environment, including:
 - Chairperson;
 - Vice-chairperson;
 - Ranking Minority Member; and
 - Three others appointed by the Speaker of the House.

Members were to be appointed on or before July 1, 2015, for a term ending on June 30, 2017, when the Committee would sunset. Staff of the Office of Revisor of Statutes, Legislative Research Department, and Division of Legislative Administrative Services will provide any assistance as requested by the Committee.

Submission of a Plan and Information to the Committee

The Secretary is required to submit to the Committee:

- A plan to investigate, review, and develop a Plan no later than the first week of November 2015;
- Information on any final rule adopted by the EPA regarding the CPP no later than February 1, 2016; and
- Any information requested by the Chairperson of the Committee.

The KCC is required to submit to the Committee:

- Information regarding each utility's re-dispatch options along with the cost of each option;
- The lowest possible cost re-dispatch options on a state-wide basis; and
- The impact of each re-dispatch option on the reliability of Kansas' integrated electric systems

If a proposed Plan is disapproved by the Committee, the Secretary will be required to resubmit a revised Plan to the Committee.

Submission of a Plan to the EPA

Prior to submitting any Plan to the EPA, the Secretary will be required to:

- Submit the Plan as proposed rules and regulations;
- Request a review of the proposed Plan by the Office of the Attorney General, who may certify to the Secretary that the Plan will not hinder, undermine, or harm the State's position in any current or pending litigation relating to the federal CPP rule; and
- Not submit a Plan if the Attorney General review indicates the Plan would adversely impact the State's legal position in any current or pending litigation relating to the federal CPP rule.

Submission of the Plan to the EPA is dependent upon the final adoption of the federal CPP rule. If the federal emission guidelines are not adopted, or are adopted and subsequently suspended or vacated in whole or part, the Secretary is prohibited from carrying out the Plan.

The Secretary is responsible for submitting a Plan to the EPA in a timely manner. The Secretary is required to prepare and submit any request for an extension of time to file a Plan, if necessary, an interim Plan or a final Plan to the EPA. Any interim or final Plan will be submitted by the Secretary no less than four calendar days prior to the federal submission deadline, or extended submission deadline, established by the EPA. Any final Plan submitted to the EPA may be submitted only if the Secretary has previously submitted the Plan for review by the Committee. The Secretary may submit any proposed Plan to the EPA that has been submitted to the Committee and has not been disapproved by the Committee within 30 days of the Committee receiving the Plan.