

COAL CEO MEETING

National Mining Association | April 2023



AGENDA

Welcome and Introductions	Paul Lang
Global Trends	Rich Nolan
Transportation - Rail	Ryan Jackson
WH/EPA/Regan Coal Plant Strategy	
- Regulations	Tawny Bridgeford
- Litigation	Tawny Bridgeford
- State Oversight - AGs	Jerry Mullins
- Congressional Oversight	Ryan Jackson
Communications	Ashley Burke/Conor Bernstein
Federal Coal Leasing	Katie Sweeney/Ryan Jackson
Discriminatory Lending/Insurance	Jerry Mullins
Black Lung Self-Insurance	Katie Sweeney
Adjournment	Paul Lang

TRANSPORTATION | RAIL

- NMA Quarterly Rail Survey
- Surface Transportation Board Rail Energy Transportation Advisory Committee (RETAC)
 - Three coal producer seats recently appointed
- NMA Testimony to STB Dec. 2022 - Union Pacific Excessive Use of Embargoes
- Congressional and State Oversight
- NMA Transportation Committee
- NMA Engages With:



Rail Energy Transportation Advisory Committee

Next RETAC meeting is April 26, 2023



SURFACE TRANSPORTATION BOARD

03/09/2023 (Thursday)
No. 22-04
www.stb.gov

FOR RELEASE

Contact:
Michael Booth
202-245-1760
FedRelay 1-800-877-8339

STB APPOINTS NINE MEMBERS TO RAIL ENERGY TRANSPORTATION ADVISORY COMMITTEE

The Surface
the Board's
are Messrs.
Paul Lang, V
serve three-y

Mr. Adam A
Association,
lessors.

Mr. John Bri
electric utilit

Mr. James G
the committe

Mr. Christop
is appointed

Mr. John Ha
Energy. He

Mr. Paul Lar



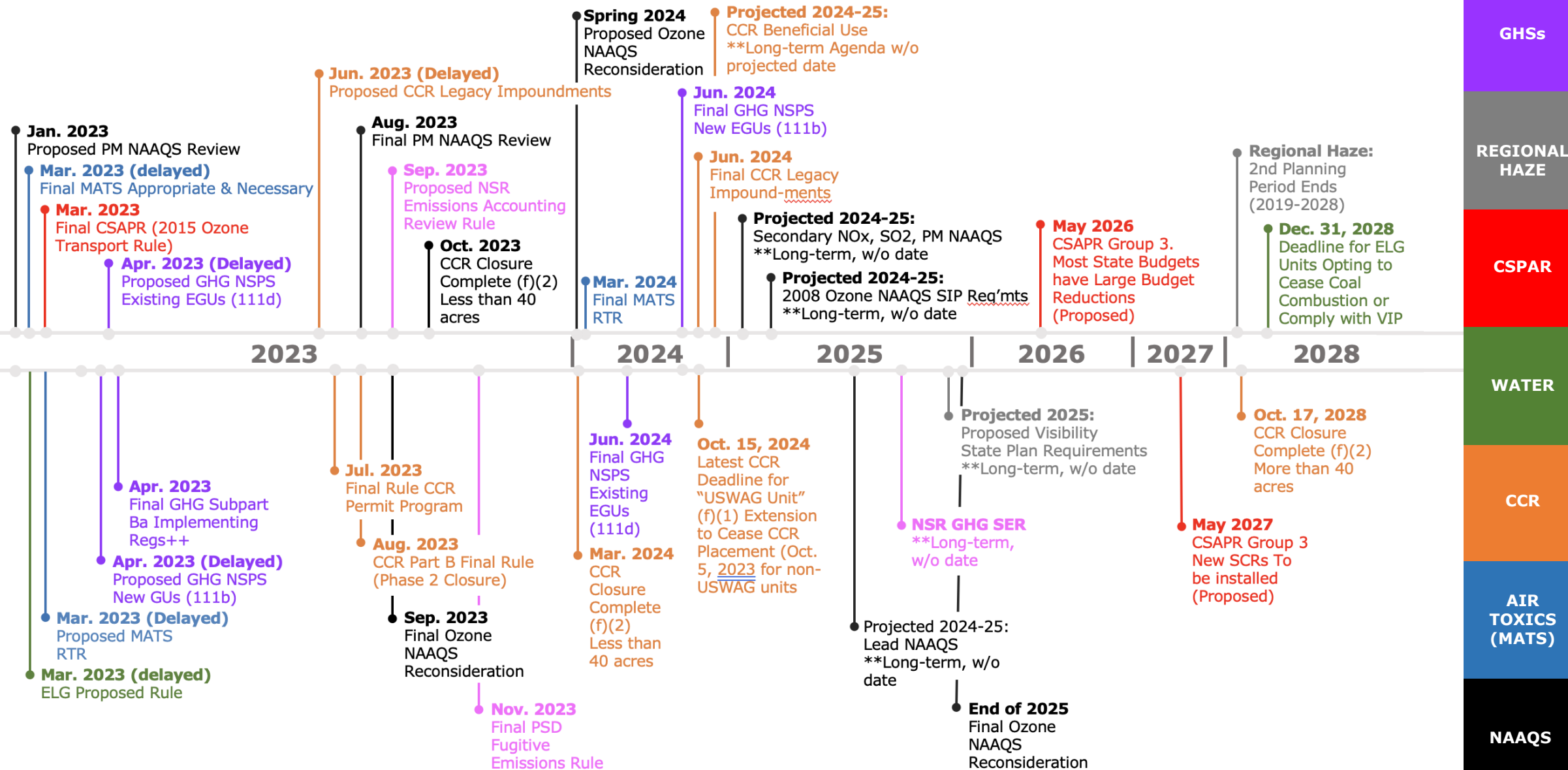
March 23, 2023

Hon. Sam Graves
Chairman
House Committee on Transportation
and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515



Hon. Rick Larsen
Ranking Member
House Committee on Transportation
and Infrastructure
2163 Rayburn House Office Building
Washington, DC 20515

EPA REGULATORY ONSLAUGHT - TIMING



RELIABILITY IMPACTS OF PENDING EPA RULES: OZONE TRANSPORT

SPP

8,184 MW by 12/2026

(37% of Coal Fleet)

ADDED TO UNITS SLATED FOR PRE-2030 RETIREMENT:

37% of coal capacity will be lost

MOUNTAIN WEST

8,892 MW by 12/2026

(38% of Coal Fleet)

ADDED TO UNITS SLATED FOR PRE-2030 RETIREMENT:

44% of coal capacity will be lost

ERCOT

7,867 MW by 12/2026

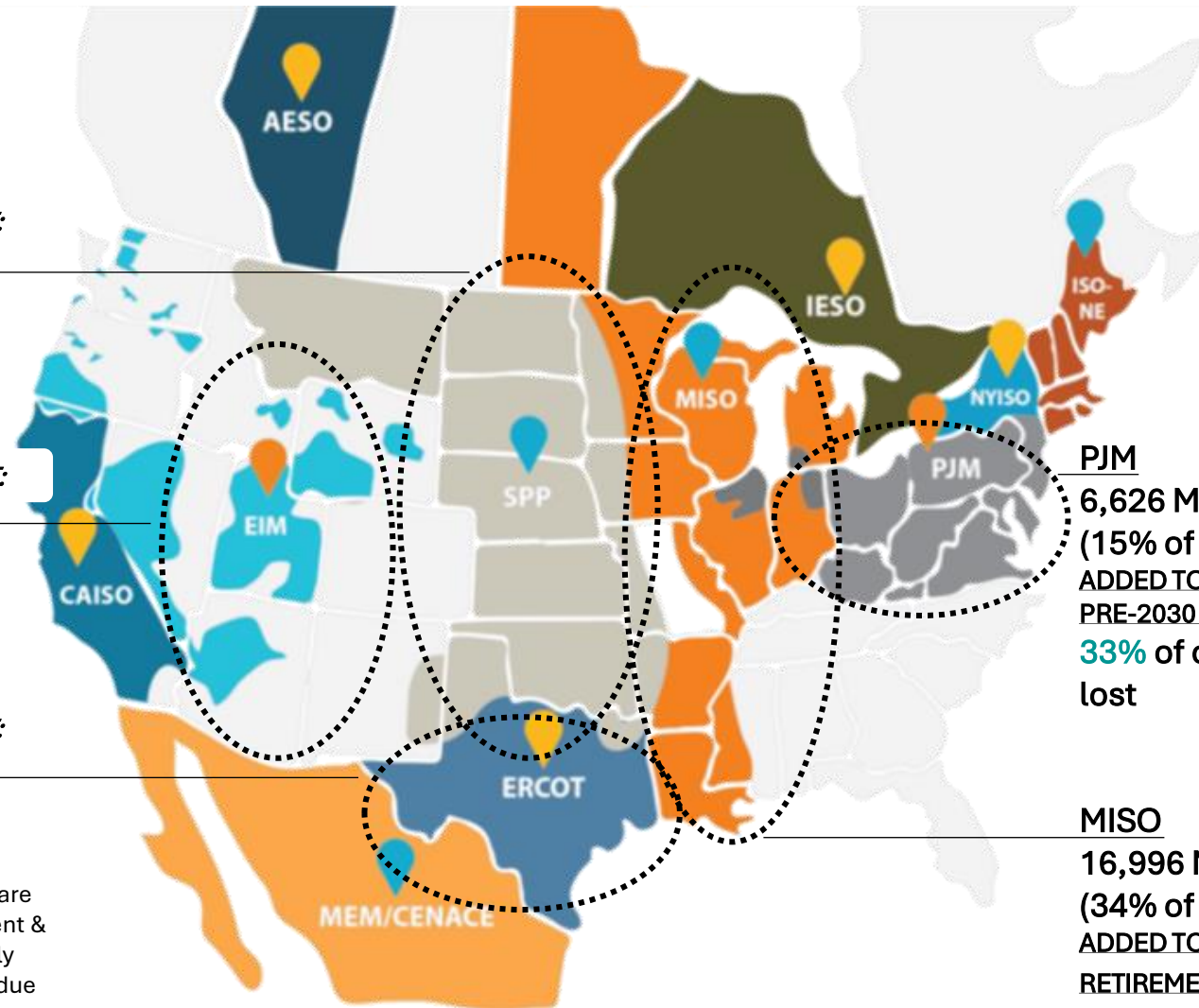
(55% of Coal Fleet)

ADDED TO UNITS SLATED FOR PRE-2030 RETIREMENT:

55% of coal capacity will be lost

NOTE:

These estimates do NOT include SCR-controlled units that are also at risk of retiring due to the Transport Rule FIP's stringent & dynamic budget setting process, caps on banking & the daily max NOx emission rate. Nor does this capture retirements due to new interpretations of the CCR Rules EPA is attempting to impose on the states (i.e. this is the low end of impact).



PJM

6,626 MW by 12/2026

(15% of Coal Fleet)

ADDED TO UNITS SLATED FOR PRE-2030 RETIREMENT:

33% of coal capacity will be lost

MISO

16,996 MW by 12/2026

(34% of Coal Fleet)

ADDED TO UNITS SLATED FOR PRE-2030 RETIREMENT:

51% of coal capacity will be lost

STATE REACTION: OZONE TRANSPORT

State Oversight

Governors



Gov. Doug Burgum
North Dakota



Gov. Mark Gordon
Wyoming



Gov. Brad Little
Idaho

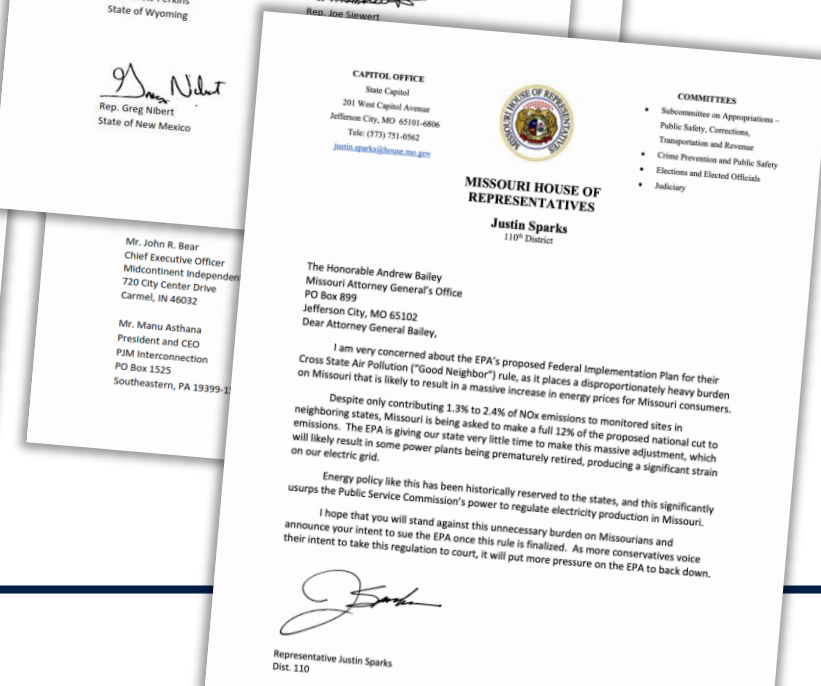
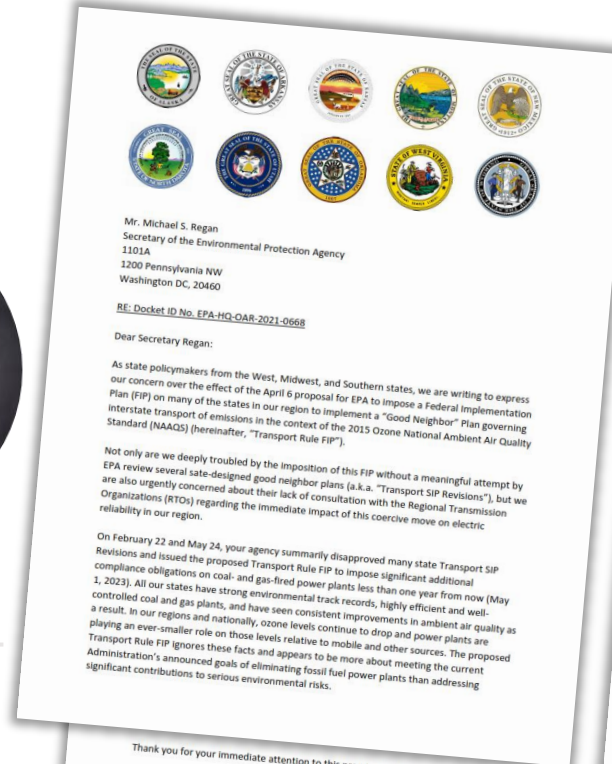
Attorneys General



AG Patrick Morrisey
West Virginia

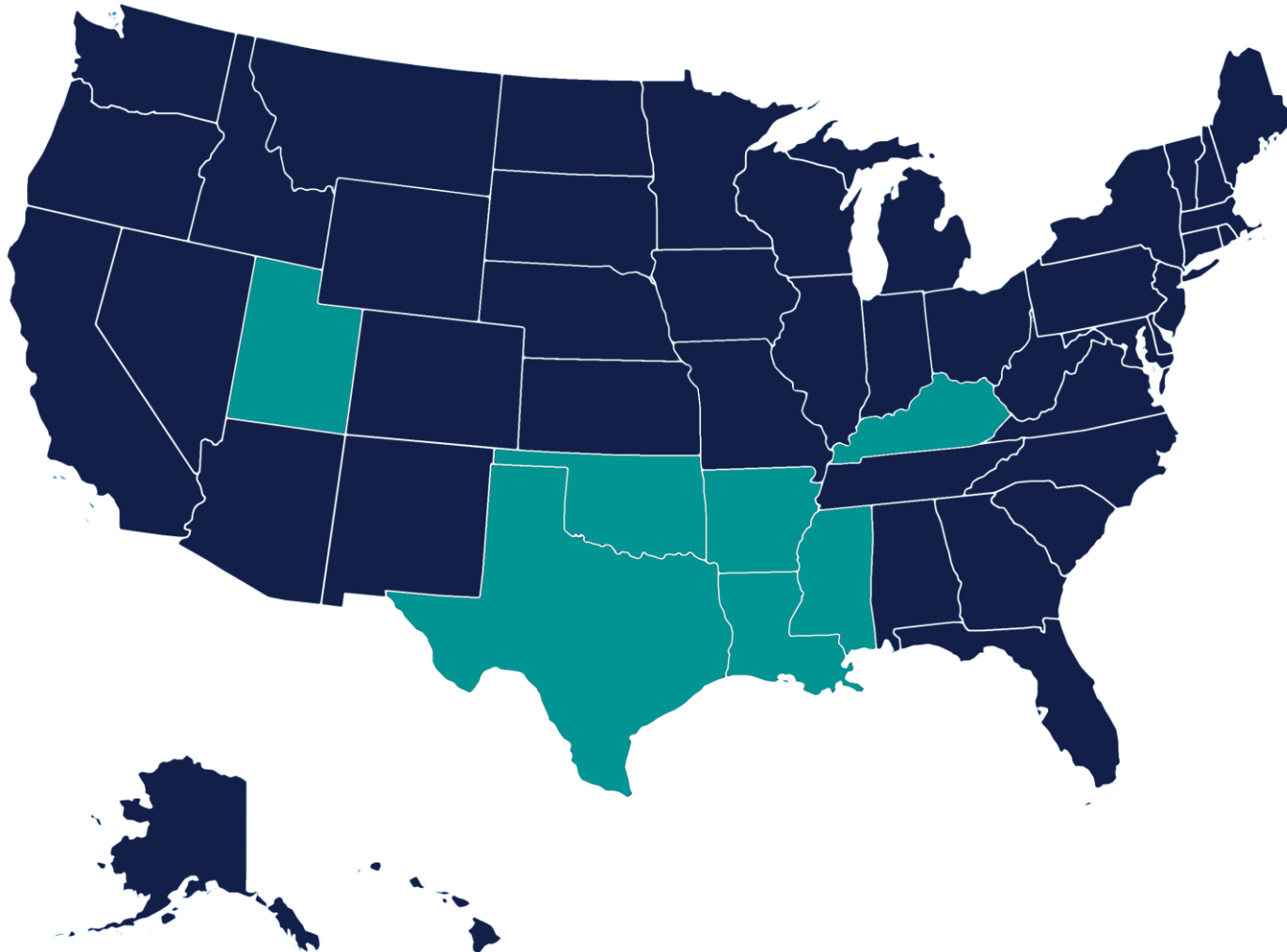


AG Sean Reyes
Utah



STATE LITIGATION ON STATE IMPLEMENTATION PLAN DENIALS

State Challenges Filed



5th Circuit:
Texas
Louisiana
Mississippi

6th Circuit:
Kentucky

8th Circuit:
Arkansas

10th Circuit:
Utah
Oklahoma



AG Landry | La.

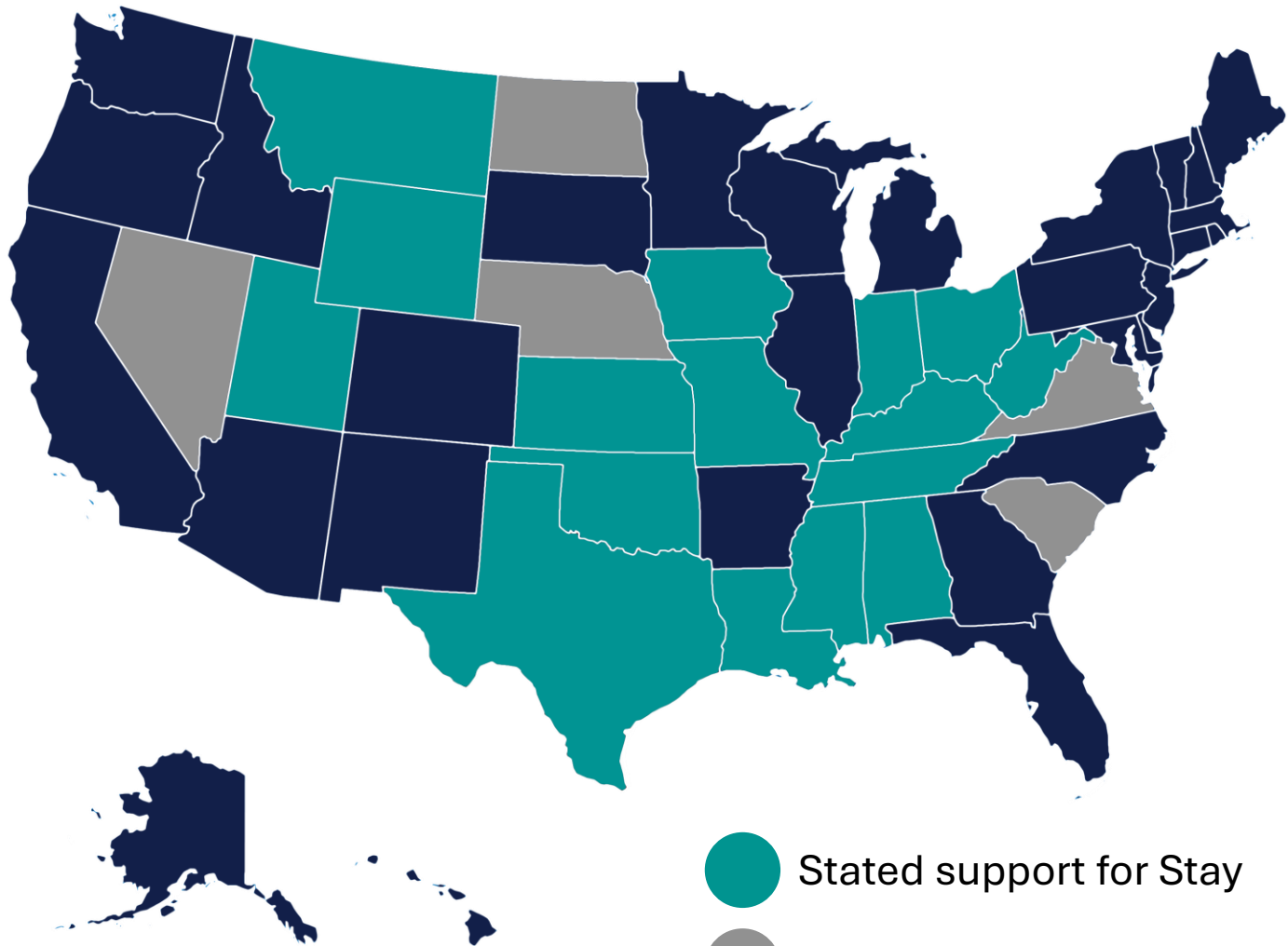


AG Griffin | Ark.



AG Paxton | Texas

STATES WORKING TO FILE A STAY ON FEDERAL RULE



- Stated support for Stay
- Considering a Stay



AG Drummond | Okla.



AG Rokita | Ind.



AG Finch | Miss.



AG Marshall | Ala.



AG Bailey | Mo.

RELIABILITY IMPACTS OF PENDING EPA RULES: COAL ASH

Coal Ash Closure Extension Denials

SPP:
882.3 MW

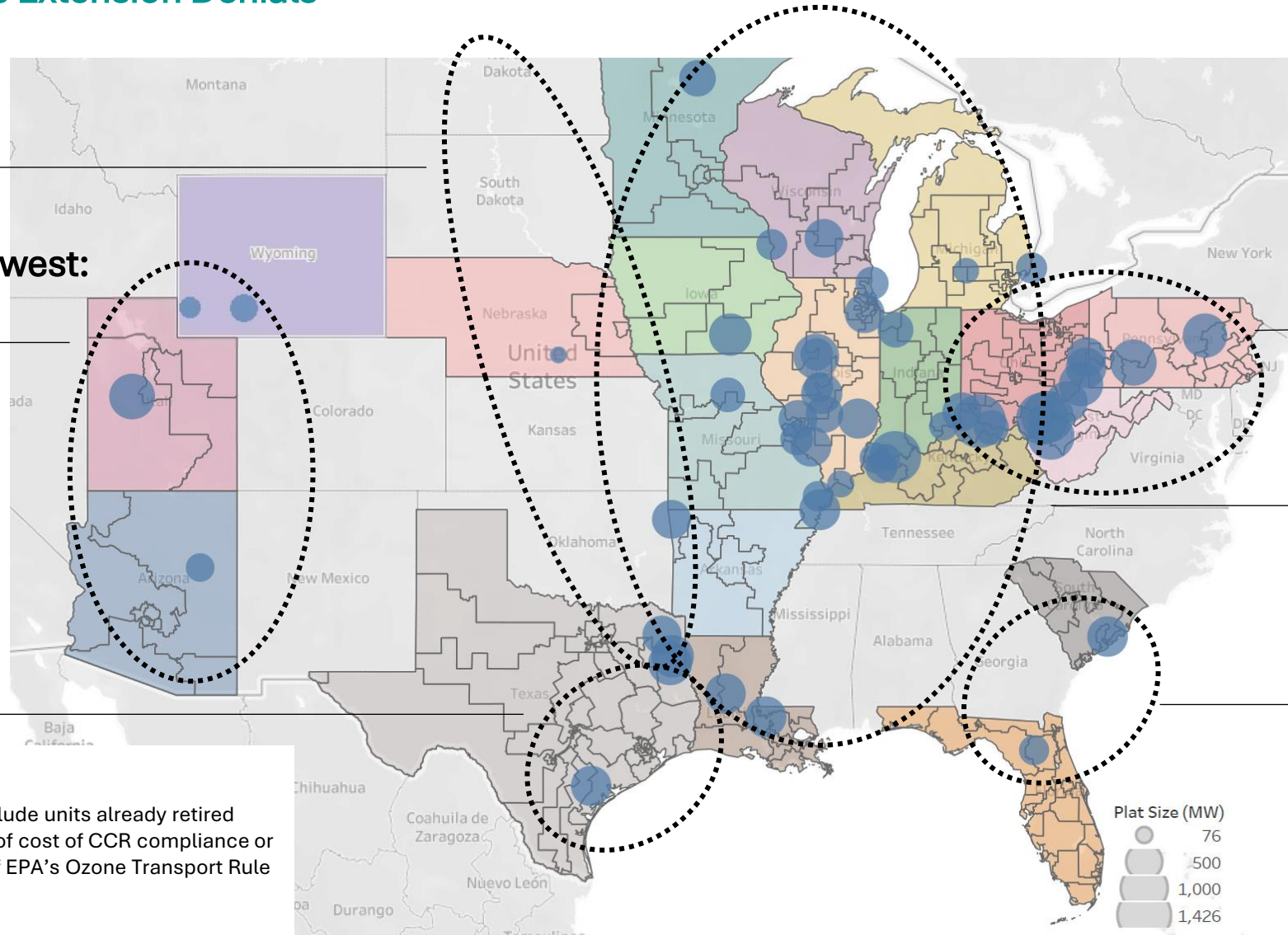
Mountain/Southwest:
3,467.7 MW

ERCOT:
3,934 MW

PJM:
17,768.2 MW

MISO:
12,576.9
MW

NOTE:
These estimates do NOT include units already retired
(or in the process) because of cost of CCR compliance or
the threatened imposition of EPA's Ozone Transport Rule
FIP (> 50,000 MWs)




CONGRESSIONAL OVERSIGHT: COAL ASH

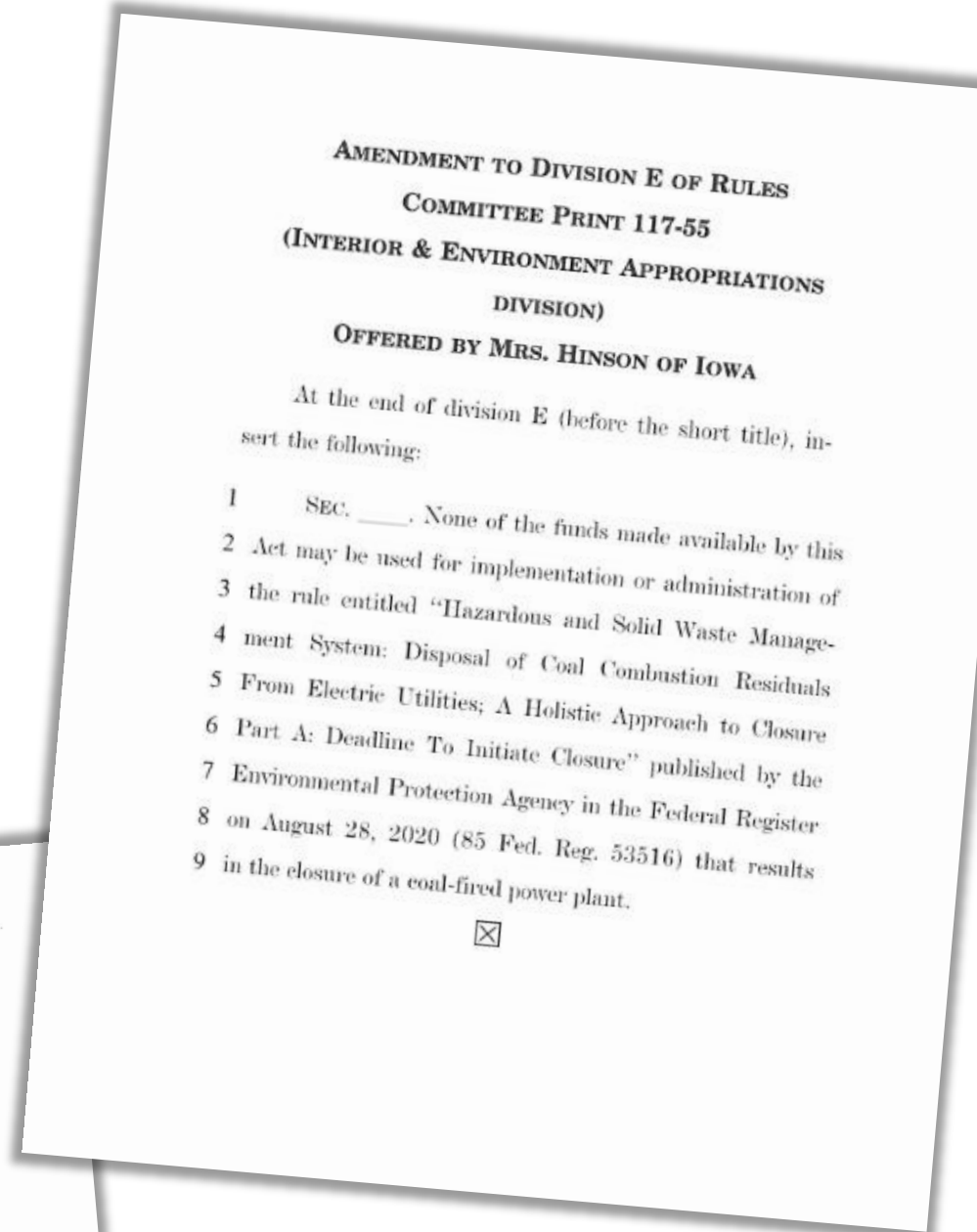
State Delegation Oversight



Sincerely,


Mitch McConnell
Republican Leader
United States Senate


James Comer
Member of Congress

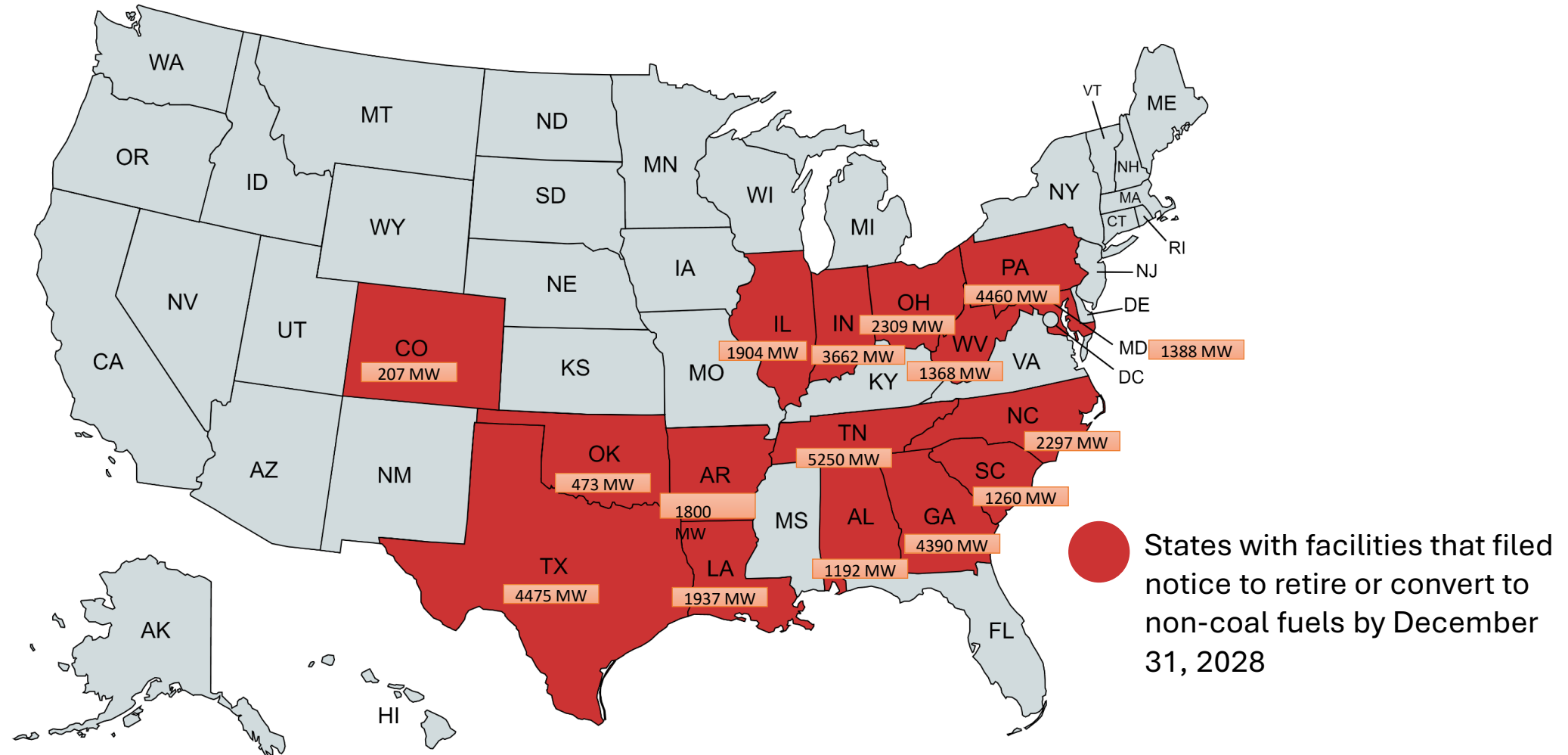


Unfortunately, we are moving in that direction

ional experts from RTOs, NERC, and
rongly voicing their concerns, we request that
er Station your full and fair consideration. We
s and industry experts on the timing of the CCR
erating capacity is not unnecessarily threatened.

ucial matter.

RELIABILITY IMPACTS OF PENDING EPA RULES: EFFLUENT LIMITATIONS GUIDELINES



COAL PLANTS AND ELECTRIC GRID RELIABILITY

EPA's Regulatory Agenda Includes Many Rules Affecting the U.S. Power Sector Driving Additional Coal Retirements

MATS Update

- Appropriate & necessary finding (proposed: Feb. 2022/final: March 2023)
- Residual risk & tech. review: OMB review began; proposal in April/May 2023/final: March 2024

Particulate Matter NAAQS

- Proposed rule: January 2023
- Final rule: August 2023

Clean Power Plan Reconsideration

- Proposed rule: April 2023 (delayed); OMB review began
- Final rule: June 2024

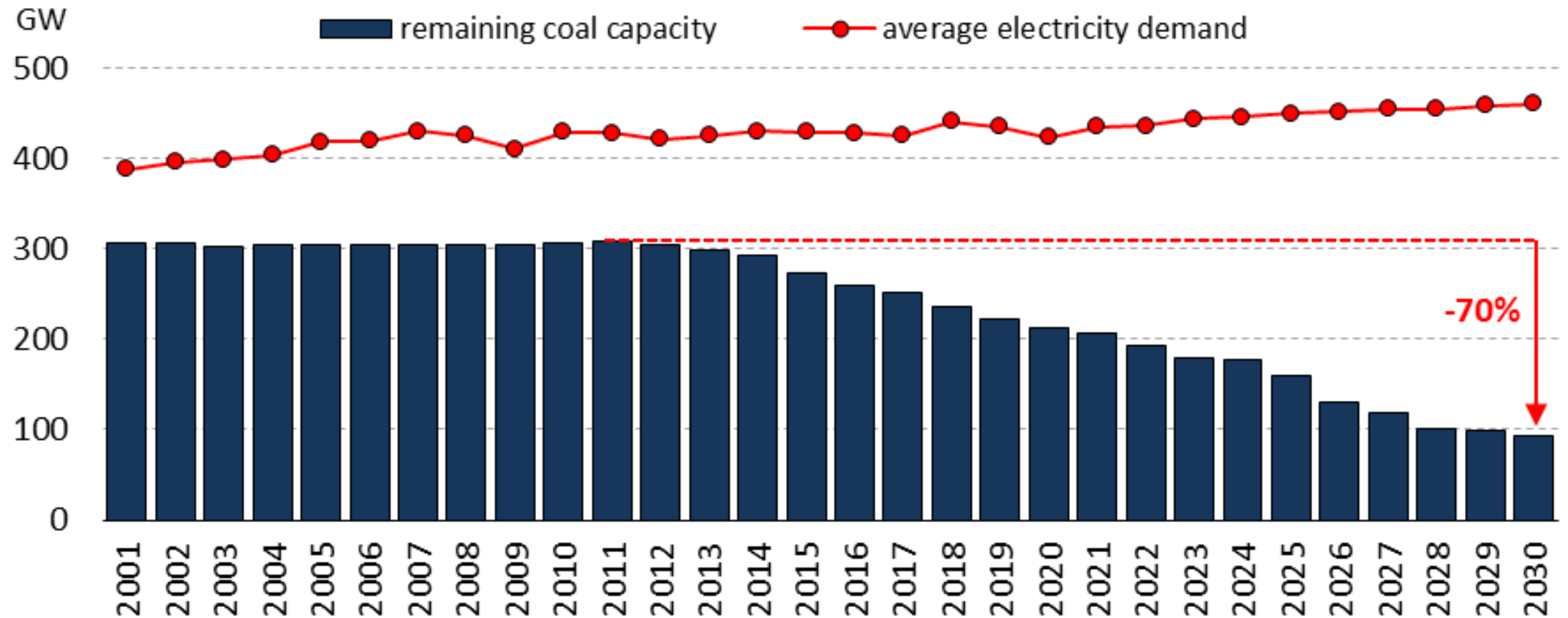
Regional Haze

- State Implementation Plans Submitted in 2022; EPA disapprovals possible this year
- Findings of failure to submit on 19 states; Federal Implementation Plan threat EPA disapprovals possible this year

- Four additional EPA regulatory matters that can have considerable impact on the U.S. coal fleet over the next decade
- EPA's Mercury Air Toxics residual risk and technology review is likely to result in lower standards for particulate matter, mercury, and acid gases requiring additional controls
- EPA's recently proposed update to the PM_{2.5} NAAQS (fine particulates) could require coal plant upgrades
- The upcoming Clean Power Plan Reconsideration could force coal plants to invest in additional controls to reduce greenhouse gas emissions
- EPA is likely to disapprove any Regional Haze plans that did not impose controls on power plants and will implement a federal plan that does

CUMULATIVE IMPACT ESTIMATES OF EPA RULES

Historical & Future Operating Coal Capacity in the U.S. Electric Power Sector vs. Average U.S. Electricity Demand



Source: U.S. EIA & EPA data + company announcements; EIA AEO 2022 electric demand forecast

GRID OPERATORS FORECAST RELIABILITY RISKS

Washington Examiner

ENERGY

Blackout risk: Nation's largest grid operator warns of capacity shortfalls

POLITICOPRO

PJM's expected fossil fuel losses could threaten reliability, report says



Energy Transition in PJM:
Resource Retirements, Replacements & Risks
Feb. 24, 2023

For Public Use

EPA DOWNPLAYS RELIABILITY RISK



U.S. Department of Energy and Environmental Protection Agency Partner to Support Reliable Electricity

WASHINGTON — The U.S. Department of Energy (DOE) and U.S. Environmental Protection Agency (EPA) today signed a [Joint Memorandum of Understanding \(MOU\)](#) to guide new clean energy opportunities that will support access to reliable, affordable electricity and advance the United States toward the Biden-Harris Administration's goal of a net-zero economy by 2050. With the power sector facing rising challenges to reliability—from the increasing frequency of extreme weather events to higher energy demand—this agreement provides a framework for both agencies to unlock the reliability advantages of the growing clean energy economy.

"The clean energy transition is an amazing opportunity to add a diverse range of energy sources to our power systems, making them more resilient and reliable," said **U.S. Secretary of Energy Jennifer M. Granholm**. "I am proud that DOE and EPA are partnering together with industry and communities to help equip the grid to deliver affordable, clean electricity to all Americans."

"A reliable electric power system is essential to our national security, continued economic growth and the protection of public health. That's why DOE and EPA are uniting our long-standing efforts to ensure a robust and resilient system, especially as the power sector accelerates the transition to low- and zero-carbon energy sources," said **EPA Administrator Michael S. Regan**. "Under this partnership with DOE, we will provide needed regulatory certainty and support grid reliability and resiliency at every stage as the agency advances efforts to reduce pollution, protect public health, and deliver environmental and economic benefits for all."

"EEI and our member electric companies are focused on affordability and reliability as we work to get the energy we provide to customers as clean as we can as fast as we can," said **Edison Electric Institute President Tom Kuhn**. "Both the Department of Energy and the Environmental Protection Agency are critical partners in these efforts, and we applaud increased coordination to support the ongoing clean energy transition that electric companies are leading."

"As we have seen in recent years, the reliability of the electric grid is tied directly to the safety and well-being of our communities," said **National Association of Regulatory Utility Commissioners Executive Director Greg R. White**. "Maintaining electricity system reliability during the transition to cleaner energy is critical to NARUC's members and is in everyone's best interest. As such, we applaud the DOE and EPA for taking this initiative."

"PJM supports the Memorandum of Understanding between EPA and DOE, as well as the close involvement of FERC, in addressing electric sector reliability during the energy transition," said **PJM Interconnection LLC**. "PJM is grateful for the support for reliability that the DOE and EPA have shown in our ongoing collaboration efforts surrounding the development and implementation of federal policy and regulations."

"The complex transitions underway in the nation's electric system can only occur on a foundation of superb reliability," said **Analysis Group Senior Advisor Dr. Susan Tierney**. "Secretary Granholm and Administrator Regan underscore the importance of this fact in committing DOE and EPA staff to work together as they carry out their old and new authorities to help ready the U.S. power sector for the needs of Americans today and tomorrow."

The new MOU on Interagency

Joint Memorandum on Interagency Communication and Consultation on Electric Reliability

U.S. Department of Energy

U.S. Environmental Protection Agency

Purpose

This memorandum by and between the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Energy (DOE) provides a framework for interagency cooperation and consultation on electric sector resource adequacy and operational reliability (together, reliability) at a time of significant dynamism in the electric power sector. The memorandum describes the respective roles and responsibilities of both agencies with regard to electric system reliability.¹ It also outlines activities that our agencies will undertake individually and collectively to monitor, share information and consult to support the continued reliability of the electric system.

The EPA and DOE both play major roles in the creation of policy and the provision of funding that relates to the electric power sector. Although the EPA and DOE have distinct institutional mandates and legal authorities, the agencies each have considerable expertise in various aspects of electric system reliability and share the objective of supporting the ability of federal and state governments, grid operators, regional reliability entities and power companies to continue to deliver a high standard of reliable electric service. As the electric power sector continues to change and as the agencies carry out their respective authorities, the agencies intend to revisit this framework and revise it as necessary.

The EPA and DOE also anticipate that they will engage in regular outreach and consultation with the Federal Energy Regulatory Commission (FERC) when carrying out activities under this memorandum. FERC is an independent agency charged with assisting consumers in obtaining reliable, safe, secure, and economically efficient energy services to Americans at a reasonable cost through appropriate regulatory and market means. In particular, pursuant to section 215 of the Federal Power Act, FERC oversees the implementation of mandatory reliability standards for the bulk power system. The EPA and DOE intend to engage FERC regularly to benefit from its expertise when undertaking activities pursuant to this memorandum.

¹ For the purposes of this memorandum, electric system refers to the bulk power system as defined in section 215 of the Federal Power Act (16 U.S.C. 824o), including the transmission system and regional distribution system, but not facilities used for the local distribution system.

CONGRESSIONAL OVERSIGHT



“The Biden Administration has continuously used the EPA as the tip of the spear to orchestrate their failed rush to green agenda. I look forward to holding the administration accountable for regulations that curtail energy production and threaten our electric grid.”

- *New Environment Subcommittee Chair Bill Johnson*



“The Biden Administration has prioritized – wrongly so – greening of the grid over the reliability of energy production and delivery. This is a dangerous mistake.”

- *Energy Ranking Member John Barrasso*



FOR IMMEDIATE RELEASE
February 22, 2023

CONTACT: Press Office
(202) 226-4972

Chair Rodgers Calls on the EPA to Abandon its Campaign to Jeopardize Grid Reliability and Shut Down American Energy

Washington, D.C. — House Energy and Commerce Committee Chair Cathy Rodgers (R-WA) issued the following statement regarding the Environmental Protection Agency's (EPA) recent decision to roll back the previous administration's mercury and air toxics standards (MATS) rule.



FEBRUARY 17, 2023

RANKING MEMBER CAPITO STATEMENT ON EPA REVIVING ITS COAL-KILLING MATS RULE

WASHINGTON, D.C. – Today, U.S. Senator Shelley Moore Capito (R-W.Va.), Ranking Member of the Senate Environment and Public Works (EPW) Committee, released the below statement on the Environmental Protection Agency (EPA) announcing the reinstatement of the “appropriate and necessary” finding for the Mercury and Air Toxics Standards (MATS) regulation that covers generation from coal- and oil-fired power plants.

“With today’s announcement, we are once again reminded that the Biden administration’s end goal is to shut down American coal plants, fire American coal workers, and do everything in its power to make sure that we have a clean energy future. We’ve seen this before, and we’ve seen it fail. The Biden administration’s plan to shut down coal plants and fire coal workers is a dangerous and reckless move that will harm the American people and the environment. We will continue to fight to protect our energy security and the jobs of our coal workers.”

COMMUNICATIONS

Polling

What Raises Voter Concerns?

EPA regs will
dismantle the grid

58%

concerned

EPA regs will
impact reliability

62%

concerned

EPA regs will
cause blackouts

64%

concerned

Speed of
the transition

66%

concerned

EPA regulations
will increase bills

71%

concerned

Europe transitioned to renewables early and aggressively, only to have to turn coal plants back on this past year to keep the lights on and prices reasonable during periods of peak demand when natural gas was unavailable, unaffordable or diverted for heating needs. Should the U.S. learn from Europe's missteps and adjust its own planning?

Proven Example



Yes - 74% { **87%** of Republicans
68% of Democrats

No - 9%

Unsure - 17%

COMMUNICATIONS

nwi.com We are creating our own electricity crisis

yahoo!
The start of a U.S. power grid crisis?

AP EPA proposes stricter limits on coal plant water pollution

The National Mining Association criticized the plan, saying it would force utilities to make decisions "solely based on EPA's environmental agenda," and called the approach "plainly irresponsible."

E&E NEWS U.S. coal power refuses to die. What that means for climate.

Nolan said the "regulatory wave that's coming" could wipe out "well-functioning coal plants" and hurt grid resilience in certain parts of the country. He rejected the argument that more renewable power from a diverse set of sources could shore up the grid. "Certainly in an ideal world if everything was wired up, and we had engineers and a permitting process that wasn't broken and electricity transmission lines were strung up all over the world, yeah, they may be correct," he said. "However, that's not reality. And that's not where we are today."

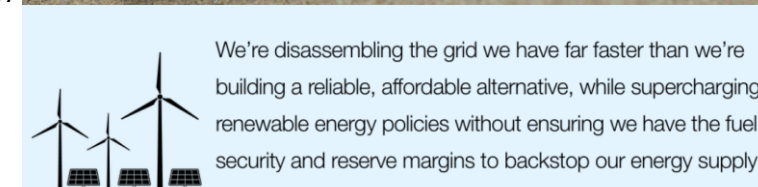
The Washington Post Power plants must cut pollution crossing state lines, new EPA rule says

"Americans and American businesses will continue to pay increasingly more for electricity that is less and less reliable" as a result of the new rule, Conor Bernstein, a spokesman for the National Mining Association, wrote in an email. "Even worse, the EPA is unilaterally making these decisions for the states — more than 18 of which use coal as their most common source of electricity generation."

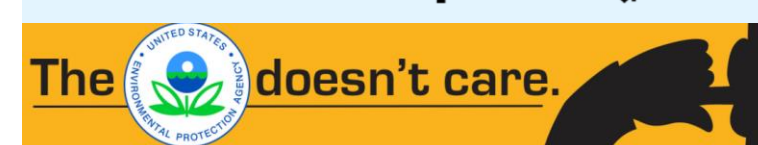
The Washington Post More coal plants could shut down under EPA's new water pollution rule

Coal industry advocates warned the new regulation would compromise the nation's grid reliability by pushing electric utilities to fill the gap left by coal plant retirements with renewable energy. "EPA is acting on its longstanding threat to make it impossible for utilities to make decisions based on the merits of what keeps the lights on, forcing those utilities to make decisions solely based on the EPA's environmental agenda," said Ashley Burke, a spokeswoman for the National Mining Association.

The EPA is driving the capacity shortfall crisis



The priorities are upside down.



The EPA doesn't care.

The reliability crisis warnings and concerns expressed by the power sector are treated as simply inconsequential – or inconvenient – to its agenda.

KEY PERFORMANCE INDICATORS: KPIs



103

Op-eds



3.19
MILLION

Audience Reached



136

Tweets + Posts



29

Blogs



453K
VIEWS

Coal Videos: 5

FEDERAL COAL LEASING

Court Imposed Moratorium Creates Uncertainty

Leasing Moratorium

- **Aug. 2022:** District Court imposes unprecedented nationwide injunction until Bureau of Land Management completes “sufficient” National Environmental Policy Act analysis
- **Oct. 2022:** NMA and states appeal to Ninth Circuit
- **Feb. 2023:** NGOs derail briefing schedule

DOI Response

- **March 2023:** Public statements from DOI at NEPA Conference that unsure how to respond to court mandate
- **March 2023:** Nonpublic second-guessing of the applicability of the Jewell moratorium exceptions, including for metallurgical coal

Program Review

- Unclear how the court decision impacts the scope or timing of BLM’s review of the Federal Program begun in Aug. 2021

FEDERAL COAL LEASING: H.R. 1

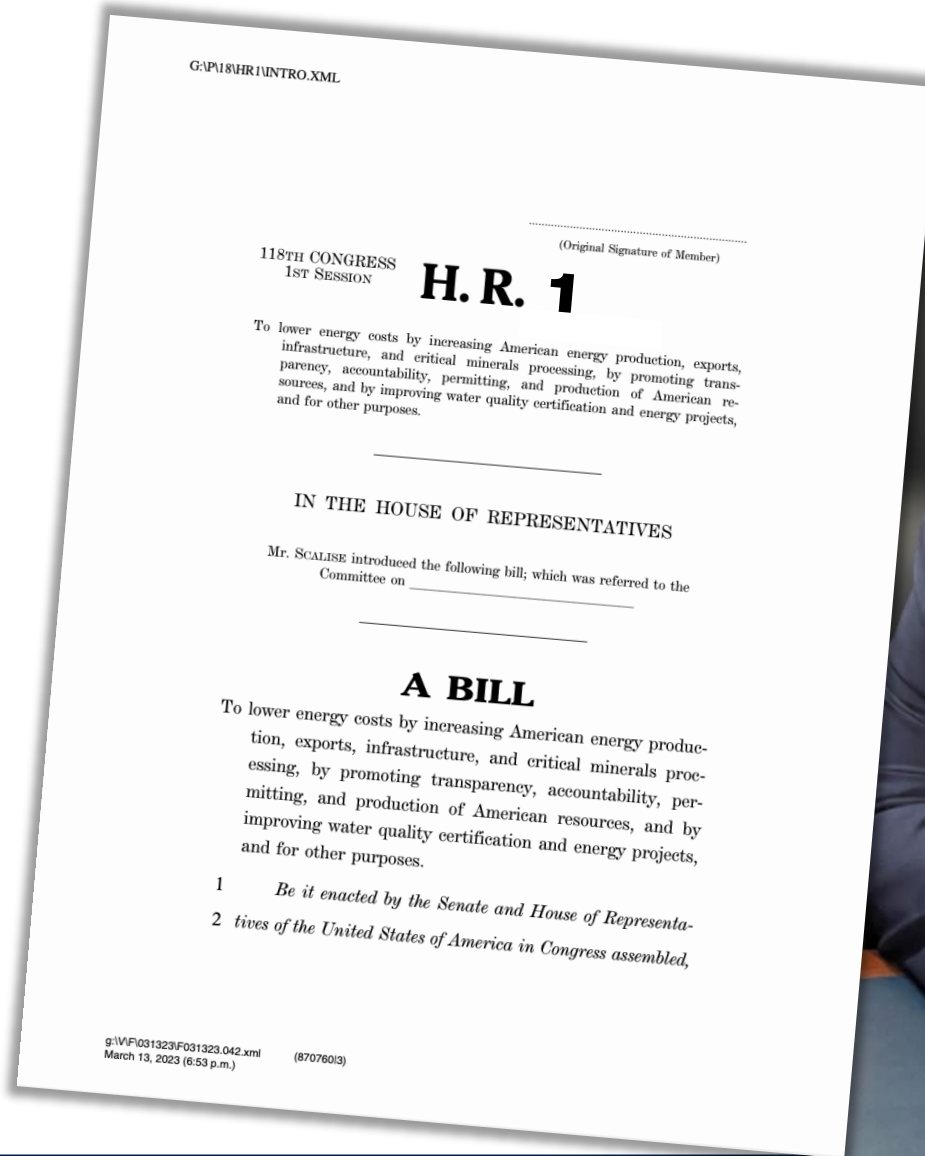


Rep. Pete Stauber
R-Minn.



Rep. Bruce Westerman
R-Ark.

- Reversing Interior Department thermal leasing moratorium
- Grant all pending lease by application



DEPARTMENT OF LABOR BLACK LUNG SELF-INSURANCE

A Proposal Built on a House of Cards

Flawed Assumptions Pervade Proposal

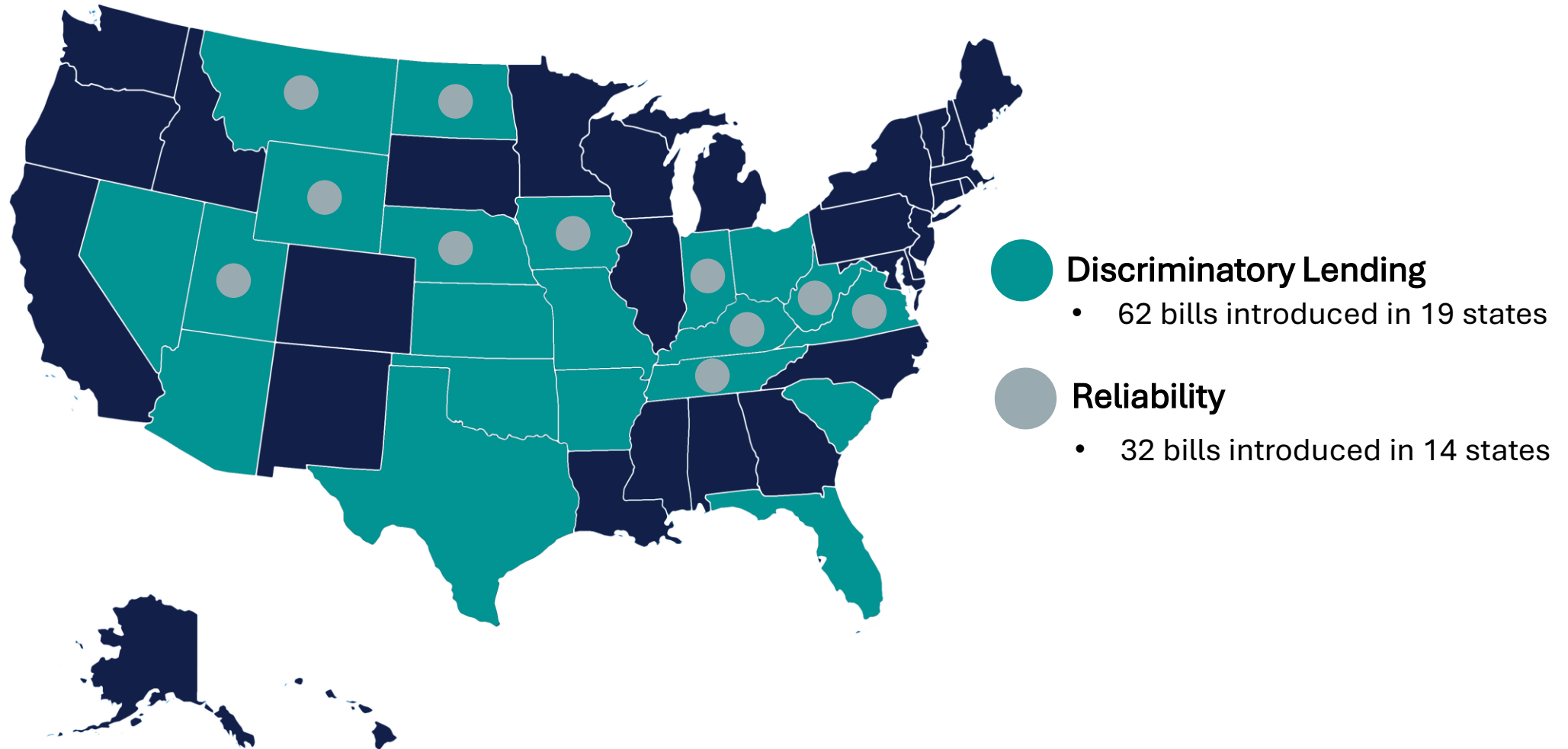
- **False Assumption:** 120 percent collateralization is needed to protect fund
- **False Assumption:** Affordable surety is readily available
- **False Assumption:** Collateralization requirement won't impair liquidity
- **False Assumption:** Rule doesn't qualify as economically significant
- **False Assumption:** Company actuarial information is unreliable

Reasonable Alternatives to Proposal Needed

- State workman compensation programs as analogue
 - Must do apples to apples comparison
 - Should be based on claims accepted and percentage of incurred by not reported (INBR) (estimated 10-15%)
- Evaluation of other federal agency self-insurance regimes
- Reserve right to litigate final rule



DISCRIMINATORY LENDING LEGISLATION | INSURANCE



COAL CEO MEETING

National Mining Association | April 2023

