



January 15, 2018

U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Submitted electronically at <http://www.regulations.gov>

Attn: Docket ID No. EPA-HQ-OAR-2017-0355

Re: Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units

The American Coal Council (ACC) submits these comments in response to the Environmental Protection Agency's (EPA) Federal Register Notice of October 16, 2017 of its proposed rule for Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources for Electric Utility Generating Units. The ACC has been in existence for 36 years and represents the collective business interests of the American coal industry. Our members include mining companies and suppliers, transportation companies and terminals, electric utilities and industrial coal consumers, and many industry support services providers. Since our member companies touch every aspect of turning one of America's most abundant resources into reliable and affordable electricity for the United States economy, our Association has first-hand knowledge of the direct and indirect impacts of coal-related regulations and a unique, "boots on the ground" perspective. Coal is also integral to the steel-making process and the industrial production of cement, chemicals, and paper. Our diverse membership base encompasses the entire coal supply chain, and it is from this broad perspective that we assess the impacts of regulations impacting coal supply and use.

ACC supports EPA's proposed rule to repeal these CO₂ emissions guidelines for the power sector, which EPA conveniently if not accurately called the "Clean Power Plan" (CPP). In our comments submitted to EPA on November 24, 2014 in response to the proposed rule, we expressed grave concerns about the detrimental impacts and lack of benefits of regulating CO₂ emissions as EPA initially designed the rule. This regulation as

proposed and later finalized is unworkable – lengthy, complex, ambiguous and over-reaching. With its controversial “outside the fence line” approach, the rule would transform how electricity is produced, distributed, transmitted, and used in the United States. It would inappropriately place EPA in the role of energy regulator, rather than environmental regulator.

This rule would limit fuel choices for electric generators, which has significant implications from an economic, business, and consumer standpoint. Coal is key to maintaining a robust, competitive fuels marketplace which keeps energy priced affordably for consumers, supports grid reliability and resilience, and provides energy security. Implementation of the Clean Power Plan would unnecessarily strand and shutter coal power plants. Investments already made for emissions reduction from those plants would be wasted.

In our prior comments to EPA, ACC detailed that the Clean Power Plan would:

- Cause severe harm to the U.S. economy and consumers
- Increase electricity prices and price volatility
- Jeopardize electric grid reliability
- Result in high job losses
- Reduce energy diversity and security for America
- Hinder coal plant efficiency improvements
- Fail to achieve air quality improvements and health benefits

With the Clean Power Plan, EPA made a choice to depart completely from prior Clean Air Act §111 regulations that were based on a “best system of emissions reduction” (BSER) using operating or technical methods to achieve compliance at a single power generation source. Instead, EPA devised a BSER applying nationwide across the electricity grid, using “building blocks” to suggest how states could comply with the reduced CO₂ emissions standards EPA set. In practical terms, this would entail a nationwide compliance strategy of forcing the power sector away from coal, treating natural gas as a bridge or transition fuel, and unwisely and unrealistically relying on energy efficiency and renewables to continue to provide electricity on-demand 24/7/365.

Widespread opposition by policy makers, legislators, businesses, and many others to the Clean Power Plan has been based on the inappropriateness of EPA’s attempt to regulate in this fashion, and the severe and costly implications of doing so. Legal challenges were filed immediately. The U.S. Supreme Court issued a stay of the rule in February 2016, halting all regulatory deadlines. This stay was unprecedented as it was the first time the

Supreme Court granted a stay before the lower court ruled on a case – demonstrating serious concerns about the rule by our nation’s highest court.

ECONOMIC IMPLICATIONS AND JOB LOSS

With the rule, enormous costs would be thrust upon consumers. As referenced in our November 2014 comments to EPA on the proposed rule, an October 2014 NERA Economic Consulting (NERA) study of the projected impacts of EPA’s proposed rule found that average annual compliance costs would be \$41 billion to \$73 billion, dramatically higher than EPA’s highest-year estimate of \$8.8 billion. This would result in double-digit electricity rate increases for up to 43 states. Moreover, NERA’s high compliance costs may be understated, since they did not include costs to upgrade the electric transmission grid to accommodate the dramatic shifts in generation sources to produce and deliver electricity nor did they include costs to add new natural gas infrastructure.¹ These energy cost increases would disproportionately impact the most vulnerable in our country, families with low and fixed incomes. Additionally, rising energy costs would negatively affect the competitiveness of U.S. industry in the global marketplace. Manufacturers and businesses would be driven offshore at best and out of business at worst. And ironically, if industry is driven away from the U.S. due to EPA regulations, it will likely be to countries with cheaper energy, lower labor costs, and less stringent environmental requirements.

The loss of jobs that would result from EPA’s proposed carbon emissions rules was detailed in the U.S. Chamber of Commerce’s May 2014 study by IHS, “Assessing the Impact of Potential New Carbon Regulations in the United States” with economy-wide job losses calculated at 224,000 per year through 2030.²

RELIABILITY AND RESILIENCE

In ACC’s comments to EPA on its §111(b) carbon emissions rule for new power plant sources, we discussed the spikes in natural gas prices and corresponding increased electricity costs during the harsh winter of 2014. That winter was a stark reminder of how quickly and dramatically energy and electricity markets can change. In these early days of 2018, the eastern part of our nation is again experiencing dramatic cold “polar vortex” conditions and many of the same factors are coming into play. On January 3, 2018, Reuters reported that natural gas prices in New England the prior week had jumped to \$53.50 per million British thermal units, noting that this was the highest since January

¹ NERA Economic Consulting at <http://www.nera.com/publications/archive/2014/potential-impacts-of-the-epa-clean-power-plan.html>

² U.S. Chamber of Commerce, “Assessing the Impact of Potential New Carbon Regulations in the United States” May, 2014.

2014.³ Bloomberg on January 4, 2018 reported prices reached a record \$175 per million British thermal units in New York, according to Consolidated Edison Inc.⁴

As a result of 2014's extreme winter weather, a growing number of elected officials, policymakers, regulators, industry, and consumers expressed concerns over resource adequacy, grid reliability, and electricity pricing. The EPA's Clean Power Plan would exacerbate those concerns, and current 2018 winter conditions are another vivid reminder of the unnecessary risks the rule would impose.

Coal's value to the electricity equation is demonstrated by its low price and price stability over time in comparison to natural gas. During the cold winter of 2014, electricity generation from coal-fueled plants was key to insulating many customers from even higher electric bills.

The reliability of coal reinforces its value as an essential fuel source. As ACC has noted in previous comments to EPA, an important distinction between the use of coal and natural gas is the ability of coal to be stored in inventory at power plants, which allows for quick response to changes in generation demand. There is no such buffer for natural gas plants so the effects of a supply disruption to plant operations, and thus dispatch availability, are immediate.

Thus, for grid reliability and resilience, coal is crucial. Many comments about the threats to reliability were submitted to EPA in 2014 by others in response to EPA's proposed CO₂ regulations, and ACC referenced some of them in our comments. These included the North American Electric Reliability Corporation, the Electric Power Research Institute, the Electric Reliability Council of Texas, and the Southwest Power Pool (SPP).

However, our nation has been moving away from coal over the past several years and nearly 51,000 MW of coal generating capacity has retired or been converted as of the end of 2016 due to EPA policies.⁵ We cannot risk continuing that policy-induced trend and the withdrawal of EPA's Clean Power Plan is necessary to protect the coal fleet and thereby protect America.

ENERGY INDEPENDENCE AND SECURITY

³ Jarrett Renshaw, "Winter Storm Challenges U.S. East Coast Energy Complex", January 3, 2018. <https://www.reuters.com/article/us-usa-weather-energy/winter-storm-challenges-u-s-east-coast-energy-complex-idUSKBN1ES1MS>

⁴ Naureen S. Malik, "Blizzard Triggers a 60-Fold Surge in Prices for U.S. Natural Gas", January 4, 2018. <https://www.bloomberg.com/news/articles/2018-01-04/natural-gas-in-u-s-soars-to-world-s-priciest-as-snow-slams-east>

⁵ American Coalition for Clean Coal Electricity, "Retirement of Coal-Fired Electric Generating Units", February 25, 2017. <http://www.americaspower.org/issue/coal-unit-retirements/>

With more coal reserves than any other country in the world and increasingly available oil and gas reserves, the U.S. has an unparalleled opportunity for energy independence and security compared to other nations. President Trump has certainly recognized this opportunity and sought to capitalize on it. Others agree, including Tom Donilon, National Security Advisor to former President Obama, who observed in April 2013:

“ ... [E]nergy matters profoundly to US national security and foreign policy. It matters because the availability of reliable, affordable energy is essential to our economic strength at home, which is the foundation for our leadership in the world.... Energy shapes national interests and relations between nations. It shapes politics, development, and governance within nations. And it shapes the security of the climate and the environment. For all these reasons and many others, increasing global access to secure, affordable, and ever cleaner supplies of energy is a global public good and a national interest of the United States.”⁶

COAL PLANT EFFICIENCY IMPROVEMENTS

The EPA's assumptions on heat rate efficiency improvements for the existing coal generation fleet were deemed unrealistic and considered to be unachievable by many. That affects EPA's other “building blocks”. Even with an optimistic outlook for improving existing coal plant efficiencies, additional coal retirements could occur in order for states to be able to comply with CPP emissions targets and/or other EPA non-point-source building blocks would need to be used.

It must be noted that capital improvement projects for heat rate efficiency improvements have been unlikely to be undertaken by utilities, due to the cost and risk associated with New Source Review (NSR). EPA did not provide for any NSR exemptions in its CO₂ rule. Fortunately, current EPA Administrator Scott Pruitt has recognized the ongoing barriers of NSR and has begun to address them.

AIR QUALITY AND HEALTH IMPACTS

ACC has been concerned about EPA's past references to health issues related to CO₂ emissions, in which EPA's public communications may have caused confusion about whether CO₂ emissions are somehow linked with asthma and heart disease. They are not.

⁶ Remarks by Tom Donilon at <https://obamawhitehouse.archives.gov/the-press-office/2013/04/24/remarks-tom-donilon-national-security-advisor-president-launch-columbia->

It has been recognized that EPA has and continues to double-count the alleged benefits of previous regulations⁷, from the MATS rule to regional haze to ambient air quality standards. EPA again used this practice to tie reductions in sulfur dioxide, nitrogen oxides, and particulate matter to its carbon emissions regulation when proposed. EPA estimated as much as \$62 billion in 2030⁸ in “air pollution” co-benefits at that time. Such co-benefits are irrelevant and inappropriate, and should not be included.

Furthermore, EPA failed to include important effects of other human health aspects of its rules. A group of health care professionals (who also serve in the U.S. Congress) wrote a letter to EPA Administrator Gina McCarthy on March 11, 2014⁹ shortly after EPA issued its proposed rule for carbon emissions from new generating sources. In that letter, they referenced a report published by Senator John Barrasso that demonstrated that high costs due to EPA regulations have profound negative impacts on public health. The report found the following impacts from unemployment due to EPA regulation:

- 1) Increases the likelihood of hospital visits, illnesses, and premature deaths in communities due to joblessness
- 2) Raises healthcare costs, raising questions about the claimed health savings of EPA’s regulations
- 3) Hurts children’s health and family well-being

In the letter the health professionals emphasized the public health consequences of access to reliable electricity, and noted that the U.S. Centers for Disease Control and Prevention recognizes that reliable electric power is essential for food safety, safe drinking water, and protection against the health consequences of extreme cold and heat. They stated that EPA must take into account the net impact of their rules on health benefits, including those adverse effects plausibly associated with unemployment and the increased cost of energy.

CONCLUSION

The Clean Power Plan was part of a misguided path on energy policy. It is inappropriate, overreaching, and unworkable. This regulation would unnecessarily impose far too many risks and extract far too great a toll on the United States. The Clean Power Plan is not a solution to a problem. It is the problem. The solution is withdrawing it in order to protect and preserve America’s economy, jobs, competitive energy marketplace, and world class electricity system – thereby protecting all American consumers.

⁷ reason.org/news/pr/the-facts-behind-the-epas-latest-pr

⁸ EPA Regulatory Impact Analysis, Table 4.15, p. 4-33

⁹ Partnership for Affordable Clean Energy <http://energyfairness.org/wp-content/uploads/2014/08/Doctors-Caucus-Letter.pdf>