



December 1, 2014

Air and Radiation Docket and Information Center
U.S. Environmental Protection Agency
Mail Code: 2822T
1200 Pennsylvania Ave., NW
Washington DC, 20460

Re: Carbon Emission Guidelines for Existing Stationary Sources:
Electric Utility Generating Units; Docket ID No. EPA-HQ-OAR-2013-0602

The following comments to the proposal by the U.S. Environmental Protection Agency (EPA) promulgating Carbon Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (79 Federal Register 34830, June 18, 2014) also known as the Clean Power Plan (CPP) are submitted on behalf of the Independent Petroleum Association of America (IPAA).

IPAA represents the thousands of independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts, that will most directly be impacted by the proposed actions. Independent producers develop 95 percent of American oil and natural gas wells, produce 54 percent of American oil and produce 85 percent of American natural gas. IPAA is dedicated to ensuring a strong, viable American oil and natural gas industry, recognizing that an adequate and secure supply of energy is essential to the national economy.

IPAA holds two principal concerns with respect to the CPP. First, the CPP's invocation of Clean Air Act (CAA) Section 111(d) sets a dangerous precedent for future regulation of other industries, including the oil and natural gas exploration and production sector, by imposing a complicated regulatory regime of greenhouse gas (GHG) standards of performance - beyond what can be reasonably be achieved by regulated industries - that the states and EPA likely do not have the capacity to implement. The usage of CAA Section 111(d) against individual industrial sectors is overly complicated and unnecessary for the minimal GHG reductions that may be achieved. Second, the CPP will impose billions of dollars in costs on the American economy but, in doing so, fails to meaningfully reduce GHG emissions on a global scale, thereby putting American's job creators at a meaningful disadvantage to their foreign competitors, incentivizing the creation of jobs outside of the United States and increasing the price of American energy for all consumers.

In relevant part, Section 111(d) establishes a procedure for promulgating standards of performance for existing sources for any air pollutant "for which air quality criteria have not been issued or . . . emitted

from a source category which is regulated under section 7412 of this title . . .”¹ Section 111(d) has been successfully used in five previous circumstances² for pollutants not regulated as criteria pollutants or hazardous air pollutants under the CAA. To regulate existing sources under Section 111(d), the CAA dictates that “[t]he Administrator [of EPA] shall prescribe regulations which shall establish a procedure . . . under which each state shall submit to the Administrator a plan which establishes standards of performance for any existing source . . . to which a [Section 111(b)] standard of performance would apply if such existing source were a new source.”³ As such, the usage of Section 111(d) is structured in such a way to rely upon the states for implementation, where the states are empowered to submit a plan establishing standards of performance for any existing source in the new source category for which EPA has promulgated a standard of performance under Section 111(b). In the event that a state refuses to submit a state plan under Section 111(d), the CAA allows for the development of a federal plan.⁴

The usage of CAA Section 111(d) to target GHG emissions from existing electric generating utilities sources sets a dangerous precedent moving forward with respect to other GHG-emitting existing sources. Fossil fuel opponents are already urging EPA to use Section 111(d) as a tool for targeting methane emissions from the oil and natural gas sector.⁵ Once EPA begins down the path of using Section 111(d) as a mechanism for regulating GHG emissions from existing sources, EPA must realize the pressure that will follow to invoke Section 111(d) to target other GHG-emitting existing sources from fossil-fuel opponents. From a regulatory efficiency standpoint, the establishment of numerous Section 111(d) regimes – targeting GHG-emitting existing sources that individually comprise a small percentage of total American GHG emissions⁶ – will impose incredible demands on state air regulators and, if states refuse to impose state plans, on EPA. IPAA seriously doubts whether state regulators or EPA have the capacity to deal with the influx of permit requests or compliance requirements associated with the development of Section 111(d) plans from GHG-emitting existing sources that will inevitably flow from the promulgation of the CPP using Section 111(d). Once the floodgates of Section 111(d) regulation for GHGs are opened, it will be difficult to turn back.

Second, as an association representing thousands of American businesses that both consume and provide American energy, IPAA is concerned that the imposition of the CPP will result in American businesses

¹ 42 U.S.C. § 7411(d).

² See “Phosphate Fertilizer Plants; Final Guideline Document Availability,” 42 Fed. Reg. 12,022 (Mar. 1, 1977); “Standards of Performance for New Stationary Sources; Emission Guideline for Sulfuric Acid Mist,” 42 Fed. Reg. 55,796 (Oct. 18, 1977); “Kraft Pulp Mills, Notice of Availability of Final Guideline Document,” 44 Fed. Reg. 29,828 (May 22, 1979); “Primary Aluminum Plants; Availability of Final Guideline Document,” 45 Fed. Reg. 26,294 (Apr. 17, 1980); “Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills, Final Rule,” 61 Fed. Reg. 9905 (Mar. 12, 1996).

³ 42 U.S.C. § 7411(d)(1)(A).

⁴ 42 U.S.C. § 7411(d)(2).

⁵ Letter from Clean Air Task Force Et al to President Obama (September 18, 2014) available at http://www.edf.org/sites/default/files/content/methane_ceo_sign-on_letter_final.pdf.

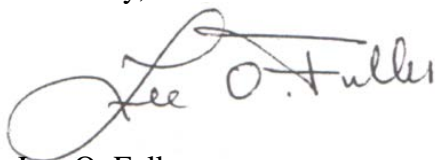
⁶ Oil and natural gas exploration and production activities accounted for approximately 1.3 percent of U.S. GHG emissions in 2012. See U.S. Environmental Protection Agency, *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2012* (April 2014) available at <http://www.epa.gov/climatechange/Downloads/ghgemissions/US-GHG-Inventory-2014-Main-Text.pdf>.

being significantly disadvantaged compared to their foreign competitors. Energy costs are a major factor in determining a business's global competitiveness. Currently, the United States is realizing a competitive advantage because of low-cost natural gas resulting from shale gas development in the United States. The natural gas renaissance in the United States will result in America having the lowest long term natural prices of any industrial nation. The United States, for example, could have natural gas at half the cost of European natural gas and at one third of the cost in Asia. As a result, the United States has a built-in price advantage, for energy costs, compared to any of its industrialized competitors. The CPP threatens to jeopardize this American success story. The manner in which the CPP is implemented, and whether EPA acquiesces to fossil fuel opponents' demands that EPA create a Section 111(d) regime to target minor, individual GHG-emitting sources, will determine whether America's competitive advantage is maintained in the future. The use of natural gas as a power generating fuel could be significantly impeded if the CPP results in the imposition burdensome compliance requirements and mandated usage of Carbon Capture and Storage or other unnecessarily costly and unproven technologies. Further extension of Section 111(d) to target methane emissions from the oil and natural gas sector will accelerate the decline of America's competitive advantage associated with low-cost natural gas.

Of additional concern is the fact that the increased costs and decreased competitiveness accruing to American consumers and business will result in few, if any, total global GHG reductions. For example, the projected CO₂ emission reduction from EPA's proposed rule is, at most, 555 million metric tons (mmt) in 2030, which represents only 1.3 percent of projected global CO₂ emissions in that year.⁷

Therefore, IPAA urges EPA to withdraw the proposed rulemaking. Should EPA wish to consider regulating GHGs from existing sources, it should first issue an ANPR in order sufficiently engage all interested and affected parties. IPAA appreciates the opportunity to provide comments on the proposed rulemaking and would welcome the opportunity to further discuss with EPA the issues raised above. Please contact me or Matt Kellogg (with IPAA at 202.857.4722) if you have questions regarding these comments.

Sincerely,

A handwritten signature in black ink that reads "Lee O. Fuller". The signature is written in a cursive style with a large loop at the beginning.

Lee O. Fuller
Executive Vice President
Independent Petroleum Association of America

⁷ U.S Environmental Protection Agency, *Regulatory Impact Analysis for the Proposed Carbon Pollution Guidelines for Existing Power Plants and Emission Standards for Modified and Reconstructed Power Plants*, (June 2014) available at <http://www2.epa.gov/sites/production/files/2014-06/documents/20140602ria-clean-power-plan.pdf>; and U.S. Energy Information Administration, *International Energy Outlook 2013* available at [http://www.eia.gov/forecasts/ieo/pdf/0484\(2013\).pdf](http://www.eia.gov/forecasts/ieo/pdf/0484(2013).pdf) (projecting global emissions of 41, 464 mmt in 2030).