

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074  
MINORITY (202) 225-5051  
<https://oversight.house.gov>

June 21, 2023

The Honorable Michael S. Regan  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Regan,

The Committee on Oversight and Accountability writes to express concern with the Environmental Protection Agency's (EPA) proposed rule which would set new emissions standards for fossil fuel-fired power plants.<sup>1</sup> The *New Source Performance Standards for Greenhouse Gas Emissions From New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions From Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule* (hereinafter NSPS Emissions Rule) is just one in a series of rulemaking actions your agency has taken to encumber reliable, domestic energy production in favor of advancing the Biden Administration's radical green agenda.

We recognize the importance of working to maintain air quality and reduce greenhouse gas emissions, and we understand the need to make technology investments to achieve that goal. But while Section 111 of the Clean Air Act (CAA) allows the EPA to develop new emissions standards when appropriate, it also directs the agency to consider whether those standards are achievable at a reasonable cost and to determine if the technology required for compliance is adequately demonstrated.<sup>2</sup> The proposed NSPS Emissions Rule fails to meet these criteria.

The proposed NSPS Emissions Rule partly hinges on the forced adoption of carbon capture and storage (CCS) infrastructure, which remain largely untested at scale. As an example of successful, scaled deployment of CCS, your agency's initial 681-page report used a facility that shut down after persistent mechanical failures with its carbon capture infrastructure.<sup>3</sup> Where CCS is implemented, it achieves much lower rates of capture than those required in the proposed NSPS

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<sup>1</sup> Environmental Protection Agency, *New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule* 88 Fed. Reg. 33240 (May 23, 2023) (proposed rule).

<sup>2</sup> 42 U.S.C. § 7411.

<sup>3</sup> *Supra*, n.1, at 201.

Emissions Rule.<sup>4</sup> Regardless of the potential for CCS technologies to limit future emissions, they remain in early stages of adoption and still face significant regulatory and permitting challenges domestically.

Additionally, the requisite technology and infrastructure will be cost-prohibitive to many power plants. In many instances, it may not be financially feasible for plants to retrofit facilities with CCS equipment – forcing existing power plants to shutter. Plants that have access to the capital needed to adopt carbon capture infrastructure will be obligated to capture and store an unprecedented 90 percent of their emissions by 2035.<sup>5</sup> The EPA’s proposed standards are a thinly veiled effort to achieve *de facto* closures of existing coal and natural gas power plants. This Administration’s energy and environmental agenda has consistently come at high cost to our nation’s energy security, and this proposed rule continues that negative trajectory.

It is difficult to overstate the threat that the proposed performance standards pose to grid reliability in the United States. If the proposed rule went into effect, it would have the strongest impact on power plants supplying baseload power to the electric grid. Just weeks ago, a commissioner on the Federal Energy Regulatory Commission (FERC) characterized the rate of domestic power plant retirements as a “reliability crisis.”<sup>6</sup> Natural gas- and coal-fired power plants comprise the largest sources of energy generation worldwide. Nearly 20 percent of domestic power generation comes from coal combustion, and 40 percent of existing electricity output in the United States is powered by natural gas.<sup>7</sup> Over the past two years, millions of Americans have felt the crushing weight of rising utility bills as a direct result of this Administration’s assault on domestic energy production. At a time of nationwide calls for increased electrification, the EPA’s knowingly decreasing generating capacity is a textbook bait-and-switch to American consumers.

The United States produces the cleanest and most affordable energy in the world. Over the past decade and a half, the growth of natural gas production alone has lowered greenhouse gas emissions to 1980s-levels.<sup>8</sup> This Administration must focus more on keeping the lights on for American citizens, and less on antagonizing reliable sources of power generation. To sacrifice affordable energy, national security, and global competitiveness would be unacceptable tradeoffs for the marginal emissions reductions EPA is projecting. We strongly urge EPA to consider industry and other public input on the cost, feasibility and adverse impacts of this overreaching policy proposal, and we reiterate Congressional calls to extend the comment period for the proposed new source performance standards by a minimum of 60 days. To assist the Committee in ensuring rulemaking will not unnecessarily jeopardize the domestic power sector, please provide the

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<sup>4</sup> Angela Jones and Ashley Lawson, U.S. Congressional Research Service, *Carbon Capture and Sequestration (CCS) in the United States* (Oct. 5, 2022) (R44902).

<sup>5</sup> *Supra*, n.1, at 18.

<sup>6</sup> *Oversight of the Federal Energy Regulatory Commission, Hearing Before the Senate Energy and Natural Resources Committee*, 118th Cong. 1 (May 4, 2023) (statement of James P. Daley, Commissioner, Federal Energy Regulatory Commission).

<sup>7</sup> U.S. Energy Information Admin., *What is U.S. electricity generation by energy source?* (last accessed June 13, 2023).

<sup>8</sup> Center for Climate and Energy Solutions, *Natural Gas* (last accessed June 13, 2022).

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following documents, information, and communications for the time period from January 20, 2021, to present unless otherwise indicated, no later than July 5, 2023:

1. All documents and communications between EPA, other agencies, and the White House to determine and establish the economic feasibility of implementing the proposed NSPS Emissions Rule;
2. All documents and communications regarding how the proposed NSPS Emissions Rule would impact grid reliability and security;
3. All documents and communications outlining how the proposed NSPS Emissions Rule would impact the cost and availability of electricity for consumers of fossil fuel-generated electricity; and
4. All documents and communications between EPA and the White House regarding changes to the proposed NSPS Emissions Rule before final issuance.

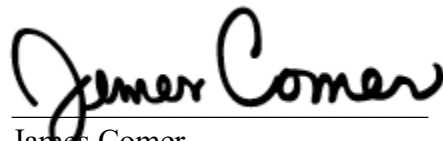
To arrange for delivery of responsive documents or to ask any related follow-up questions, please contact the Committee on Oversight and Accountability Majority staff at 202-225-5074. Attached are instructions for producing the documents and information to the Committee.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, “any matter” at “any time” under House Rule X. Thank you for your attention to this important matter.

Sincerely,



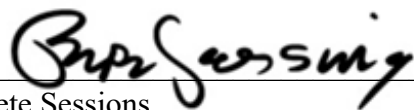
Jake LaTurner  
Member of Congress



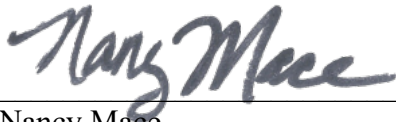
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and the Federal Workforce



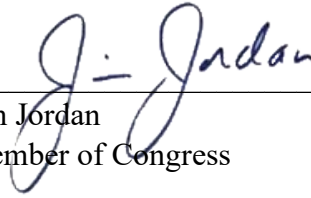
Nancy Mace  
Chairwoman  
Subcommittee on Cybersecurity,  
Information Technology, and  
Government Innovation



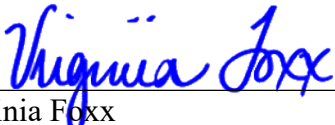
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Subcommittee on Economic Growth, Energy  
Policy, and Regulatory Affairs



Lisa McClain  
Chairwoman  
Subcommittee on Health Care and  
Financial Services



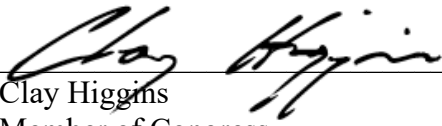
Jim Jordan  
Member of Congress



Virginia Foxx  
Member of Congress



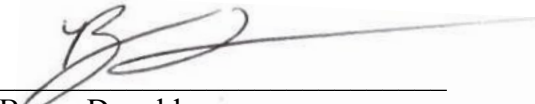
Gary Palmer  
Member of Congress



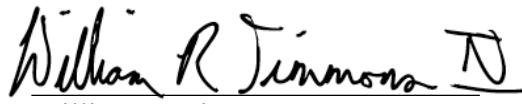
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Byron Donalds  
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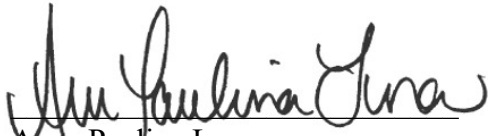
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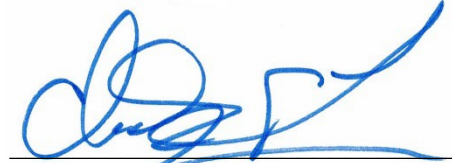
Lauren Boebert  
Member of Congress



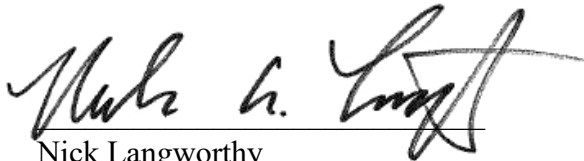
Russell Fry  
Member of Congress



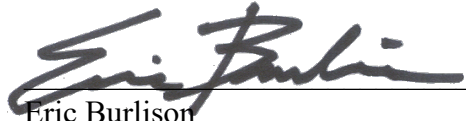
Anna Paulina Luna  
Member of Congress



Chuck Edwards  
Member of Congress



Nick Langworthy  
Member of Congress



Eric Burlison  
Member of Congress

cc: The Honorable Jamie B. Raskin, Ranking Member  
Committee on Oversight and Accountability

The Honorable Robert Garcia, Ranking Member  
Subcommittee on National Security, the Border, and Foreign Affairs

The Honorable Kweisi Mfume, Ranking Member  
Subcommittee on Government Operations and the Federal Workforce

The Honorable Gerald Connolly, Ranking Member  
Subcommittee on Cybersecurity, Information Technology, and Government  
Innovation

The Honorable Cori Bush, Ranking Member  
Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs

The Honorable Katie Porter, Ranking Member  
Subcommittee on Health Care and Financial Services