

U.S. Chamber of Commerce Testimony
On
Environmental Protection Agency Revised New Source Performance Standards
for Electric Utility Generating Units
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My name is Heath Knakmuhs, and I am Vice President and Policy Counsel for the Global Energy Institute, an affiliate of the U.S. Chamber of Commerce (“Chamber”). The Chamber is the world’s largest business federation, representing the interests of more than three million businesses and organizations of every size, sector and region. The mission of the Global Energy Institute is to unify policymakers, regulators, business leaders, and the American public behind a common sense energy strategy to help keep America secure, prosperous, and clean. The Chamber appreciates the opportunity to testify today in support of the Environmental Protection Agency’s (“EPA”) revised New Source Performance Standards (“NSPS”) for new, modified, and reconstructed fossil fuel-fired electric generating units.

When originally finalized in 2015, the NSPS exceeded the EPA’s authority under the Clean Air Act by imposing requirements on new coal-fired generating units that were neither “adequately demonstrated” nor “commercially available.” The 2015 NSPS wrongly concluded that carbon capture and sequestration (“CCS”) technology was required for the domestic construction of any new, large-scale coal-fired power plant, notwithstanding the fact that no such plant had yet been completed or deemed operational in the country at that time. The faulty conclusions that premised this rule prompted a lawsuit from the Chamber and 15 other business groups, as well as votes in both chambers of the 114th Congress to nullify the regulation.

Four years later, not much has changed, as only one example of operational partial CCS technology on a large coal-fired power plant exists domestically, this being at the Petra Nova plant in Texas which commenced CCS operations in late 2016. Globally, the Boundary Dam facility in Canada remains the only other large-scale fossil-fueled power plant integrating CCS technology. Both of these facilities retrofitted post-combustion capture technology to units of *existing* plants, and both are geographically situated to offset a portion of the cost of CCS by selling captured CO₂ for nearby enhanced oil recovery operations—an option that does not exist in many locations. Moreover, both projects were financially supported by their respective federal governments, thereby disqualifying them

– per explicit language included in the Energy Policy Act of 2005 – as suitable examples of “standards of performance” for the purpose of establishing “adequately demonstrated” control technologies.

To be clear, the Chamber believes CCS technology holds great promise to assist us in taking full advantage of America’s vast domestic energy resources while addressing the challenge of CO₂ emissions and climate change. We have long supported the Department of Energy’s efforts to advance this technology along with parallel legislative efforts to improve the economics of CCS. However, the Clean Air Act’s NSPS program requires EPA to identify and apply technologies that are already “adequately demonstrated” in practice, on an industrial scale. The standards set forth in EPA’s revised NSPS meet that test, whereas the prior mandatory CCS requirement did not. Further, there were many technological, economic, and legal challenges associated with the geologic sequestration of CO₂ that were not addressed in EPA’s 2015 regulation.

The establishment of subcritical boiler design for small units and supercritical boiler design for large units, in combination with best operating practices, establishes the type of “Best System of Emission Reduction” (“BSER”) envisioned within the Clean Air Act. Pursuant to Energy Information Administration data, there are 63 power plants across the country where these more efficient boiler design technologies are employed, satisfying the “adequately demonstrated” prerequisite. While clarifications to this guidance would be welcome, including the potential linkage of the NSPS “best operating practices” with the proposed Affordable Clean Energy Rule’s heat rate improvement and improved operating and maintenance practices, the Chamber supports this reasonable and technologically-driven standard.

The Chamber also supports the EPA’s exclusion of certain control technologies from the revised BSER. Designs such as partial CCS, fuel co-firing, combined heat and power, hybrid power plant design, and Integrated Gasification Combined Cycle (“IGCC”) technologies may be implemented where geography and the associated costs and conditions align, but these situations tend to be isolated, rather than widespread, therefore limiting their application on a widely-demonstrated scale.

The EPA’s decision to retain the previously-established standards of performance for newly constructed or reconstructed stationary combustion turbines is also commendable. While the 2015 rule wrongly imposed CCS as a prerequisite for new coal-fired power plants, the combustion turbine standard instead focused on adequately demonstrated and achievable efficient natural gas combined cycle technology. This widely-deployed and cost-effective technology benefits from its efficient combustion process and a reasonable cost curve, thereby leaving the door open for the development of new natural gas-fired power plants that can utilize America’s vast natural gas resources to provide low-cost electricity to keep powering our economy forward.

The Chamber strongly supports the EPA’s efforts to establish durable, achievable, and lawful carbon reduction guidelines applicable to new, modified, and reconstructed electric generating facilities. We commend the EPA for producing a revised NSPS rule that falls clearly within the agency’s statutory authority.

The Chamber appreciates today’s opportunity to provide comment on the EPA’s revised NSPS proposal. While economic and reliability factors, along with state-level portfolio mandates, will continue to play significant roles in the fuel choices made with respect to the construction of new electric generating units, burdensome regulations that exceed the EPA’s applicable statutory authority

should not. The 2015 NSPS rule served as a *de facto* ban on the construction of new coal plants. The EPA's removal of that unlawful prohibition means that different generation types can again freely compete against each other based upon their merit, rather than an uneven regulatory construct.