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# Greenhouse Gas Standards/Guidelines for Fossil Fuel-Fired Power Plants: U.S. House of Representatives Committee on Energy and Commerce Chair/Subcommittee Chairs Request EPA Withdrawal

11/15/2023

The U.S. House of Representatives Committee on Energy and Commerce Chair, along with two Subcommittee Chairs, sent a November 13th letter to U.S. Environmental Protection Agency (“EPA”) Administrator Michael S. Regan addressing the proposed Greenhouse Gas (“GHG”) Standards and Guidelines for Fossil Fuel-Fired Power Plants (“Clean Power Plan 2.0 or CPP2.0 Proposal”).

The letter was jointly authored by:

- Cathy McMorris Rodgers  
Chair  
House Committee on Energy and Commerce
- H. Morgan Griffith  
Chair  
Subcommittee on Oversight and Investigations
- Bill Johnson  
Chair  
Subcommittee on Environment, Manufacturing,  
and Critical Material

The CPP2.0 Proposal was issued by EPA in May 2023. See 88 Fed. Reg. 33,240.

The CPP2.0 Proposal would limit GHG emissions for fossil fuel-fired power plants. This would include both new and existing natural-gas-fired plants and from existing coal-fired plants pursuant to Section 111 of the Clean Air Act.

The CPP2.0 Proposal would set limits for:

- New gas-fired combustion turbines
- Certain existing gas-fired combustion turbines
- Existing coal, oil, and gas-fired steam generating units

The proposed standards are based on technologies that include carbon capture and sequestration/storage (“CCS”), low-greenhouse gas hydrogen co-firing, and natural gas co-firing.

EPA has a history of promulgating regulations attempting to address power plant GHGs under the Section 111 of the Clean Air Act. They were initially proposed during the Obama Administration. However, the Trump Administration rescinded the Obama Administration’s Clean Power Plan and replaced it with the Affordable Clean Energy Rule.

The United States Court of Appeals for the District of Columbia subsequently invalidated the Affordable Clean Energy Rule in 2021. In 2022 the United States Supreme Court invalidated the Obama Clean Power Plan in *West Virginia v. EPA*, applying the “Major Questions Doctrine.” The United States Supreme Court *West Virginia* decision generally prohibits EPA from setting emission standards that determine market share of various types of power generation.

In the current CPP2.0 Proposal EPA has taken the position that it does not run afoul of *West Virginia* because it sets standards based on emission reduction measures that can be implemented at individual facilities.

The November 13th Committee on Energy and Commerce letter to Administrator Regan expresses a number of concerns about the CPP2.0 Proposal. Those concerns include:

- Ability of the power sector to meet the requirements with CCUS because of lack of infrastructure
- Delay of certain CO2 pipeline projects
- Causing transformation of United States electric generation which could lead to reliability and expense issues
- Overestimation of the feasibility for operating fossil electric-generating units including the needed non-electric generating unit infrastructure necessary for meeting the CPP2.0 Proposal
- Violation of the Major Questions Doctrine
- Misleading and defective EPA analyses undermines public trust and creates costly regulatory/legal uncertainty, harming orderly planning for power generation

The letter requests that EPA consider withdrawing the CPP2.0 Proposal. It also asks that the Administrator provide certain information which would assist the Committee in examining EPA’s process in developing the rule.

A copy of the letter can be downloaded [here](#).