



**STANDARDS OF PERFORMANCE FOR GREENHOUSE GAS EMISSIONS FOR  
NEW STATIONARY SOURCES: ELECTRIC UTILITY GENERATING UNITS;  
PROPOSED RULE**

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U.S. Environmental Protection Agency  
Public Hearing  
Washington, D.C.

Statement of the National Mining Association  
Alex Bond – Director, Air Quality

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Good morning. I am Alex Bond, the Director of Air Quality at the National Mining Association (NMA). NMA represents the producers of most of America's coal, metals, industrial and agricultural minerals. The current proposal by the U.S. Environmental Protection Agency (EPA) to establish New Source Performance Standards (NSPS) to reduce greenhouse gas (GHG) emissions from new electric utility generating sources is not designed to improve environmental performance, but rather a rushed attempt to move forward with its regulatory agenda coupled with a reliance on untested and undemonstrated technology. My comments today will highlight the problems inherent with EPA's decision in setting its proposed emissions standards, EPA's gamble with the diversity of America's energy mix, and the impacts on future rulemakings contained in EPA's proposed rule.

## **CCS Technology is Promising, But It Cannot Be Considered BSER Since It Is Not Adequately Demonstrated**

The Clean Air Act (CAA) provides EPA discretion in establishing standards of performance for new sources under section 111(b). Importantly, however, Congress constrained EPA's standard-making authority in two important ways by requiring every NSPS to be "*achievable*" through a system of control that "*has been adequately demonstrated.*" EPA has determined, despite lack of adequate demonstration, that the best system of emission reduction (BSER) for new coal units is to force those units to install carbon capture and storage (CCS) technology in order to meet a standard of 1,100 pounds per megawatt hour (lbs./Mwh) of carbon dioxide (CO<sub>2</sub>). While EPA cites several major projects in determining that CCS is "adequately demonstrated" as BSER, these projects are either under construction and not yet operational (Kemper, Boundary Dam), in the planning phase and facing difficulties (HECA, TCEP), or not designed to function primarily as a power plant (Great Plains Synfuels).

The lack of commercially operating facilities with real world performance data belies the demonstrated nature of these projects cited by EPA. EPA justifies its decision to require CCS by asserting that a standard based upon advanced coal generation technologies such as Supercritical (SCPC), Ultra-Supercritical (USCPC) and Integrated Gasification Combined Cycle (IGCC) generation will not result in "significant" CO<sub>2</sub> reductions and will not provide an incentive for technological innovation.<sup>1</sup> In contrast, EPA contends that the regulatory requirements to use CCS

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<sup>1</sup> 79 FR at 1468

will promote further development of the technology. EPA's reasoning is fatally flawed on both counts. The utility sector is able to achieve significant CO<sub>2</sub> reductions from building highly advanced and highly efficient coal technologies that are technically feasible today. Further, EPA's assertions about the proposed rule's ability to incentivize technological innovation are highly questionable in the face of the unavailability of CCS technology for commercial power generators.

In EPA's discussion of setting CCS as BSER for coal units, EPA argues that setting CCS as BSER for coal units would "promote deployment and further development of the technology." However, EPA's disparate treatment of new coal plants and natural gas base load plants in fact sets up a false choice for utility operators. In contrast to the proposed standard for coal, rather than seeking "as much emission reduction as practicable," from new natural gas plants, the agency inexplicably sets a standard will allow emission increases. Advanced natural gas combined cycle (NGCC) plants have a base load rating emission rate of 760 lbs. CO<sub>2</sub>/MWh, according to EPA.<sup>2</sup> Without explanation, EPA therefore dismisses the emission reductions that could be achieved by new SPCC or IGCC while setting a standard that will allow new NGCC units to actually increase emissions by at least 20 percent above what the best existing units achieve.<sup>3</sup>

By offering the choice between CCS-controlled coal on the one hand and uncontrolled NGCC units on the other, EPA is instead providing a distinct

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<sup>2</sup> 79 FR at 1485

<sup>3</sup> EPA's emissions rates cited for both NGCC and Conventional (non-CCS) coal units are based on design specs for units while operating at full load, which is not representative of real world operating conditions, as discussed in NMA's forthcoming comments.

disincentive, and likely a roadblock, to the further development and deployment of CCS technologies. Given the cost disparities, as admitted by EPA in its levelized cost of electricity (LCOE) analysis, between CCS-equipped coal units and NGCC units without CCS, the proposed NSPS simply and irretrievably incentivizes a further build-out of NGCC units and the freezing of any new investments in the development of CCS.

### **EPA's Proposal Gambles With America's Energy Future by Jeopardizing Diversity in Electric Generation**

Utility operators have obligations to their shareholders, customers and public utility commissions to provide low cost (or at least affordable) power, regardless of fuel type. While utilities also value fuel diversity in order to hedge their risks against the rise in cost of fuel supplies be they coal, natural gas or otherwise, that diversity must be justified economically. To put it bluntly, utilities do not value fuel diversity simply for the sake of being diverse – they are obligated to consider market fundamentals and justify their decisions based on sound logic and economics. By requiring all new coal units to install and operate CCS systems, with their admitted high capital costs for installation, operation and maintenance, EPA has constrained the ability of utilities to justify building new coal units to address fuel diversity concerns. CCS is still in 'first of a kind' developmental stage – and the requirement for only coal units with the itinerant costs makes CCS technology economically infeasible. Thus, utilities are effectively barred from developing CCS projects by the combination of EPA's regulatory requirements, their need to respond to the fundamental economics and concerns of providing affordable power, and the

continued availability of the option to build NGCC units without any carbon constraints.

Any meaningful effort to achieve long-term, sustainable reductions in global GHG emissions will depend on the development and deployment of new energy technologies, including advanced clean coal technologies and CCS. The rapid development, demonstration and widespread deployment of such technologies are of paramount importance in any reasoned and effective effort to address climate change concerns. The proposed rule hinders rather than helps attain this goal.

### **Impacts on Future Rulemakings**

This proposed rule is merely step one of EPA's response to the President's Climate Action Plan, as the agency moves forward with regulations for the power sector under the CAA to reduce CO<sub>2</sub> emissions. The President has given EPA an incredibly aggressive set of regulatory deadlines to meet. These timelines are incredibly tight, giving very little time for the agency to fully consider the impacts of their upcoming proposed regulations, especially as the currently proposed rule might impact the upcoming set of proposed rules. Given that all future rules under section 111 of the CAA are linked to the legality and precedential nature of any sector rules proposed under CAA section 111(b), EPA needs to be particularly cautious here. In order to avoid unintended negative impacts on the power sector, NMA believes that EPA must pledge in the final rule that the rule will not have any impacts on modified sources that are traditionally subject to section 111(b) authority, that the proposed rule cannot set the BACT floor given its impracticability for existing and modified

sources, and that EPA's technology forcing approach in the proposed rule should not (and cannot) be the philosophical underpinning for its upcoming rulemakings.

In closing we urge the Agency to reconsider the path it has chosen with its proposed rule for all of the above stated reasons. NMA will submit more detailed written comments by the March 10, 2014 comment deadline. Thank you for your time today.