

Comments of Lance Bowman, Environmental Defense Fund, Legal Fellow
at Public Hearing on Proposed Standards of Performance for Greenhouse Gas
Emissions from New, Modified, and Reconstructed EGUs

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Good morning. My name is Lance Bowman, and I'm a legal fellow at Environmental Defense Fund (EDF). On behalf of our more than two million members and supporters, EDF urges EPA to withdraw its reckless, unlawful proposed rule for new coal plants. The proposal fails to place any meaningful limits on power plant pollution, fails to reckon with the reality of climate change, and, as a result, fails to satisfy EPA's legal obligation under the Clean Air Act.

The importance of limiting carbon pollution from new power plants cannot be overstated. The electric power sector is the second largest source of carbon pollution in our country. According to the U.S. Energy Information Administration, power plants emit nearly two billion tons of carbon dioxide annually¹—roughly one-third of our nation's total carbon pollution.² For nearly a decade, EPA has recognized that carbon pollution endangers the health and welfare of the American people. Under the Clean Air Act, this endangerment obligates EPA to require new power plants to limit their emissions using the “best” system of emission reduction. But the current administration now proposes to weaken current standards for new coal-fired power plants, and find that achieving no meaningful emission reduction is what's “best.” Indeed, the proposed standard for brand new coal-fired power plants is significantly weaker than what many existing coal plants are already achieving without carbon controls.

But as EPA correctly determined in 2015, new coal plants can achieve significant pollution reductions, including through the use of carbon capture and storage (CCS). The agency's current proposal to exclude CCS arbitrarily ignores the facts on the ground. The successful Petra Nova project in Texas, and the Boundary Dam Project in operation in Canada, are just the latest facilities demonstrating the feasibility of CCS, and several other projects around the world are in the planning and/or development stages. Congress has likewise recognized the importance and feasibility of CCS. In 2018, Congress passed a bipartisan bill that extended and strengthened existing tax incentives to support companies that implement CCS technology. EPA would do well to take Congress's cue and recognize the importance of achieving pollution reductions through CCS.

¹ See U.S. EIA, *Monthly Energy Review*, at 207 (Jan. 2019),
<https://www.eia.gov/totalenergy/data/monthly/pdf/mer.pdf>.

² EPA, Overview of Greenhouse Gases: Carbon Dioxide Emissions (last visited Feb. 13, 2019),
<https://www.epa.gov/ghgemissions/overview-greenhouse-gases#carbon-dioxide>.

Instead, the agency has put forth this damaging proposal that flouts the very purpose of New Source Performance Standards (NSPS). Congress designed the NSPS program to ensure that pollution sources like new power plants—which last for several decades—are built with the very latest, most modern pollution controls. This program has a long history of accelerating widespread deployment of pollution control solutions. Yet EPA proposes archaic standards that essentially invite construction of uncontrolled, heavily-polluting coal plants.

But EPA’s standards for coal plants must reflect the existential threat that climate change poses to life on Earth as we know it. The Intergovernmental Panel on Climate Change released a special report last fall that concluded with high confidence that averting catastrophic and irreversible damage to our environment and ecosystems would require rapid, far-reaching changes in all aspects of society, including the energy sector. According to one of the report’s lead authors, “[t]he next few years are probably the most important in our history.”³ EPA does not dispute this reality. In fact, EPA co-authored a report published last November which concluded “that the evidence of human-caused climate change is overwhelming and continues to strengthen, that the impacts of climate change are intensifying across the country, and that climate-related threats to Americans’ physical, social, and economic well-being are rising.”⁴ Yet the current administration now proposes to act in a way that ignores the very urgency the agency highlighted just a few months ago. This proposal would do nothing to address climate change, and ignores the availability of effective pollution controls. This is the very definition of arbitrary.

The Environmental Protection Agency’s creed is written right into its name. Having found that climate pollution endangers the health and welfare of the American people, EPA’s mandate under the Clean Air Act is clear: the agency must require new sources of that pollution—here, coal plants—to control their emissions using the best system of emission reduction. EPA’s proposal to ignore feasible, effective pollution controls is plainly at odds with this mandate. We thus urge the EPA to do its job, protect the environment and the American people, and abandon this unlawful and deeply harmful proposal.

³ *Summary for Policymakers of IPCC Special Report on Global Warming of 1.5°C Approved by Governments*, IPCC (Oct. 8, 2018), <https://www.ipcc.ch/2018/10/08/summary-for-policymakers-of-ipcc-special-report-on-global-warming-of-1-5c-approved-by-governments/>.

⁴ USGCRP, *FOURTH NATIONAL CLIMATE ASSESSMENT, VOL. II: IMPACTS, RISKS, AND ADAPTATION IN THE UNITED STATES*, at 36 (Nov. 23, 2018), https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf.