



VIA ELECTRONIC SUBMISSION

January 16, 2018

Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Docket ID EPA–HQ–OAR–2017–0355, Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units

Dear Administrator Pruitt:

Associated Builders and Contractors Inc. (ABC) hereby submits the following comments to the U.S. Environmental Protection Agency (EPA) in response to the above-referenced proposed rule, published in the *Federal Register* on Oct. 16, 2017, at 82 Fed. Reg. 48035.

About Associated Builders and Contractors Inc.

ABC is a national construction industry trade association established in 1950 that represents more than 21,000 members. ABC and its 70 chapters help members develop people, win work and deliver that work safely, ethically and profitably for the betterment of the communities in which ABC and its members work. ABC's membership represents all specialties within the U.S. construction industry and is comprised primarily of firms that perform work in the industrial and commercial sectors. Moreover, a majority of our contractor members are classified as small businesses. Our diverse membership is bound by a shared commitment to the merit shop philosophy in the construction industry. The philosophy is based on the principles of nondiscrimination due to labor affiliation and the awarding of construction contracts through open, competitive bidding based on safety, quality and value.

Background

On Oct. 23, 2015, EPA issued a final rule entitled Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, also known as the Clean Power Plan (CPP).¹ The final rule established emission guidelines for states to follow in developing plans to reduce greenhouse gas emissions from existing fossil fuel-fired electric generating units. During the rulemaking process, ABC submitted comments to the EPA with a coalition of business stakeholders expressing concerns with the proposed rule.²

¹ 80 Fed. Reg. 64662

² See ABC's comment letter, as part of the Partnership for a Better Energy Future, at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0602-22894>

On Feb. 9, 2016, the U.S. Supreme Court voted 5-4 to grant a request by 27 states and a number of companies and businesses to block the CPP from being implemented while litigation continued over the rule's legality.³ On March 28, 2017, President Donald Trump signed Executive Order (EO) 13783, Promoting Energy Independence and Economic Growth, which called for a review of the CPP.⁴ In accordance with the president's EO, on Oct. 16, 2017, the EPA issued a proposed rule to repeal the CPP.⁵

ABC's Comments in Response to the Proposed Rule

ABC writes in support of the EPA's proposed rule to repeal the CPP. As expressed during the rulemaking process, we believe that the Obama-era regulation would increase compliance and transaction costs and limit access to affordable energy for many hardworking Americans and U.S. businesses. With this new proposal, the EPA is afforded the opportunity to take a more reasonable approach to addressing carbon emissions while supporting businesses and jobs and ensuring necessary and essential environmental protections in our communities.

In its previous opposition to the CPP, ABC argued that the CPP is not compatible with numerous practical and technical aspects of America's electricity system, and the CPP would have far exceeded and exceeded the federal government's regulatory authority over state and local agencies.⁶ Further, the Energy Information Administration (EIA) concluded that the proposal would increase electricity prices for Americans by approximately \$40.5 billion, reduce GDP by an average of \$59 billion per year and result in more than 375,000 fewer jobs by 2030.⁷

As stated by the EPA in its decision to repeal the CPP:

The CPP required regulated entities to take actions "outside the fence line." Traditionally, EPA Section 111 rules were based on measures that could be applied to, for and at a particular facility, also referred to as "inside-the-fence-line" measures. Prior to the CPP being issued, every single Section 111 rule on the books, including a handful of existing-source rules and around 100 new-source rules, obeyed this limit. As the CPP departed from this traditional limit on EPA's authority under an "inside-the-fence-line" interpretation, EPA is proposing to repeal it.⁸

We applaud the EPA for recognizing these limits to its authority and support moving toward a more inside-the-fence-line approach. ABC supports efforts to ensure environmental quality in our communities through historically proven methods such as gains in efficiency, new available technologies and market-based increases in the use of renewable energy. ABC believes this approach is within the authority of the EPA and will encourage innovative and affordable solutions to reduce carbon emissions in the United States.

³ https://www.supremecourt.gov/orders/courtorders/020916zr3_hf5m.pdf

⁴ <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-promoting-energy-independence-economic-growth/>

⁵ 82 Fed. Reg. 48035

⁶ See ABC's comment letter, as part of the Partnership for a Better Energy Future, at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0602-22894>

⁷ A detailed summary of EIA's CPP modeling is available at <https://www.globalenergyinstitute.org/sites/default/files/EIA%20CPP%20Final%20Rule%20Analysis%20Final%20Formatted%20Single%20Column.pdf>

⁸ News Releases from Headquarters: EPA Takes Another Step to Advance President Trump's America First Strategy, Proposes Repeal Of "Clean Power Plan"

<https://www.epa.gov/newsreleases/epa-takes-another-step-advance-president-trumps-america-first-strategy-proposes-repeal> (accessed Jan. 9, 2018)

Conclusion

For the reasons outlined above, ABC supports the EPA's proposal to repeal the Obama-era CPP. ABC looks forward to working with the EPA on any new proposal to replace the CPP and to support important initiatives and policies that ensure affordable energy, energy independence and critical jobs for hardworking Americans.

Thank you for the opportunity to submit comments on this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ben Brubeck". The signature is written in a cursive style with a large initial "B".

Ben Brubeck
Vice President of Regulatory, Labor and State Affairs