



VIA ELECTRONIC SUBMISSION

October 31, 2018

The Honorable Andrew Wheeler  
Acting Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

**Re: Docket ID EPA–HQ–OAR–2017–0355, Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units; Revisions to Emission Guideline Implementing Regulations; Revisions to New Source Review Program**

Dear Acting Administrator Wheeler:

Associated Builders and Contractors Inc. hereby submits the following comments to the U.S. Environmental Protection Agency in response to the above-referenced proposed rule, published in the *Federal Register* on Aug. 31, 2018, at 83 Fed. Reg. 44746.

**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, Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, also known as the Clean Power Plan.<sup>1</sup> The final rule established emission guidelines for states to follow in developing plans to reduce greenhouse gas emissions from existing fossil fuel-fired electric utility-generating units. During the rulemaking process, ABC submitted comments to the EPA with a coalition of business stakeholders expressing concerns

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<sup>1</sup> 80 Fed. Reg. 64662.

with the proposal.<sup>2</sup> The finalized CPP was eventually stayed by the U.S. Supreme Court, and never went into effect.<sup>3</sup>

On March 28, 2017, President Donald Trump signed Executive Order 13783, Promoting Energy Independence and Economic Growth,<sup>4</sup> which called for a review of the CPP, and the EPA issued a proposed rule to repeal the CPP on Oct. 16, 2017.<sup>5</sup> ABC submitted comments in support of the repeal stating that it gives the agency 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.<sup>6</sup>

On Aug. 31, 2018, EPA issued the above-referenced proposed rule, also known as the Affordable Clean Energy rule, which would replace the Obama-era CPP with revised emission guidelines that inform the development, submittal and implementation of state plans to reduce greenhouse gas emission from certain EGUs. The ACE rule seeks to address many of the concerns that ABC has previously expressed regarding the CPP and provide states with critical guidance and flexibility in providing affordable clean energy to their citizens.

### **ABC's Comments in Response to the Proposed Rule**

ABC writes in support of the EPA's proposed ACE rule, which would replace the Obama administration's CPP with revised emissions guidelines, propose new regulations to direct both EPA and the states on the implementation of emission guidelines and revise the New Source Review program. With this new proposal, the EPA has taken a more reasonable approach to addressing carbon emissions while supporting businesses and jobs and ensuring necessary and essential environmental protections in our communities.

ABC has previously expressed its concerns that the EPA exceeded its authority under the Clean Air Act when it proposed the CPP. The ACE rule's approach addresses these concerns, maintaining an "inside-of-the-fence" approach that provides a list of "candidate technologies" for states to evaluate for existing coal-fired power plants and promotes investment to ensure cleaner, more efficient power plants. This approach is critical to an effective, all-of-the-above energy policy that ABC supports.

If finalized, the rule would also provide true flexibility and increased options for states to reduce emissions without unnecessary and burdensome federal overreach that would affect our states, utility companies and consumers. This critical aspect of the rule ensures that the federal government serves in cooperation with our states and local communities, rather than applying the top-down approach of the CPP that resulted in 27 states filing lawsuits to stop the regulation.

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

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<sup>2</sup> 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>.

<sup>3</sup> [https://www.supremecourt.gov/orders/courtorders/020916zr3\\_hf5m.pdf](https://www.supremecourt.gov/orders/courtorders/020916zr3_hf5m.pdf)

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

<sup>5</sup> 82 Fed. Reg. 48035.

<sup>6</sup> See Comments submitted by Ben Brubeck, vice president of regulatory, labor and state affairs, Associated Builders and Contractors, <https://www.regulations.gov/document?D=EPA-HQ-OAR-2017-0355-8336>.

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.

**Conclusion**

For the reasons outlined above, ABC supports the EPA's proposal and looks forward to working with the EPA 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, flowing style.

Ben Brubeck  
Vice President of Regulatory, Labor and State Affairs