

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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December 13, 2013

The Honorable Janet McCabe
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator McCabe:

Thank you for appearing before the Subcommittee on Energy and Power on Thursday, November 14, 2013, to testify at the hearing entitled "EPA's Proposed GHG Standards for New Power Plants and H.R. __, Whitfield-Manchin Legislation."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests by the close of business on Friday, January 10, 2014. Your responses should be e-mailed to the Legislative Clerk in Word format at Nick.Abraham@mail.house.gov and mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Ed Whitfield
Chairman
Subcommittee on Energy and Power

cc: The Honorable Bobby L. Rush, Ranking Member,
Subcommittee on Energy and Power

Attachments

Attachment 1—Member Requests for the Record

During the hearing, Members asked you to provide information for the record and you indicated that you would provide that information. For your convenience, descriptions of the requested information based on the relevant excerpts from the hearing transcript are provided below.

The Honorable Robert E. Latta

1. During the hearing, you agreed to provide the committee with a list of facilities that were using scrubbers when the standards developed to require the use of scrubbers was implemented and made final in the late 1970s. Please provide a list of these facilities.

The Honorable David B. McKinley

1. During the hearing, you agreed to respond in writing regarding how it is that you are testifying that carbon capture and storage (CCS) technologies for coal plants are available now, when back in November 2011, EPA Administrator Lisa Jackson was quoted as stating that CCS technology was a “maybe a decade or more” away from being commercially available. The Department of Energy similarly put out their own report saying the technology wouldn’t be commercially viable until 2020. Please explain why you disagree with the projections of Administrator Jackson and the Department of Energy.

The Honorable John D. Dingell

1. During the hearing, you indicated that you have reached out to stakeholders, including industry stakeholders, about components of greenhouse gas rules for new and existing power plants. Please submit for the record all of the actions you and your office have taken with regard to the development of these rules.

Attachment 2—Additional Questions for the Record

The Honorable Ed Whitfield

1. On June 25, 2013, President Obama issued a [Presidential Memorandum](#) directing EPA to re-propose greenhouse gas standards for new power plants no later than September 20, 2013, and to issue a final rule “in a timely fashion” after considering public comments.
 - a. What is EPA’s current schedule for issuing a final rule?
2. The Presidential Memorandum referred to above also directed EPA to propose standards, regulations or guidelines, as appropriate, for modified, reconstructed and existing power plants by June 1, 2014 and finalize them by June 1, 2015.
 - a. Is this EPA’s current schedule for the issuance of standards, regulations or guidelines for modified, reconstructed and existing plants?
3. The Presidential Memorandum referred to above also directed that EPA include in its guidelines addressing existing power plants a requirement that States submit to EPA implementation plans no later than June 30, 2016.
 - a. What does EPA expect the agency’s timeline will be for reviewing implementation plans submitted by States?
4. Under the language of section 111(d) of the Clean Air Act, EPA establishes a procedure under which States submit to the EPA Administrator a plan that contains “standards of performance” for existing stationary sources.
 - a. Does EPA agree that it is the role of States, not EPA, to establish standards of performance for existing stationary sources under section 111(d)?
 - b. Does EPA agree that States, not EPA, would have the primary role in setting any standards of performance for individual electric utility generating units under section 111(d)?
 - c. Does EPA agree that any standards of performance established for existing electric generating units under section 111(d) should be achievable by individual existing electric utility generating units?
5. You testified that for EPA’s planned greenhouse gas regulations for existing power plants, “EPA will set the target, but then the states will have flexibility to meet that in whatever way makes sense to them. So it does not need to be a unit by unit regulation, or expectation.”
 - a. What do you mean when you refer to “the target” to be set by EPA? Please explain.
6. Prior to Administrator McCarthy’s signing proposing greenhouse gas standards for new electric utility generating units on September 20, 2013, was EPA aware of the provisions of the Energy Policy Act codified at 42 U.S.C. 15962(i) that state: “No technology, or level of emission reduction, solely by reason of the use of technology, or the achievement of the emission reduction, by 1 or more facilities receiving assistance under this Act, shall be considered to be . . . adequately demonstrated for purposes of [section 111 of the Clean Air Act]. . .”?
 - a. Given the proposal makes specific reference to technologies receiving assistance under the Energy Policy Act of 2005, why were these provisions not specifically addressed in the proposal?

7. Prior to Administrator McCarthy's signing proposing greenhouse gas standards for new electric utility generating units on September 20, 2013, was EPA aware of the provisions of the Energy Policy Act codified at 26 U.S.C. 48A(g) that state: "No use of technology (or level of emission reduction solely by reason of the use of the technology), and no achievement of any emission reduction by the demonstration of any technology or performance level, by or at one or more facilities with respect to which a credit is allowed under this section, shall be considered to indicate that the technology or performance level is . . . adequately demonstrated for purposes of section 111 of the Clean Air Act . . ."?
 - a. Given the proposal makes specific reference to technologies receiving tax credits under the Energy Policy Act of 2005, why were these provisions not specifically addressed in the proposal?
8. To what extent was the U.S. Department of Justice consulted by EPA regarding the proposed standards for new power plants announced on Sept. 20, 2013?
9. To what extent was the U.S. Department of Energy (DOE) consulted by EPA regarding the proposed standards for new power plants announced on Sept. 20, 2013?
 - a. In your response, please identify which DOE office(s) and/or laboratories EPA consulted regarding the proposed rule.
 - b. If your response, please identify when EPA consulted with these DOE offices and/or laboratories regarding the proposed rule.
10. Prior to Administrator McCarthy's signing proposing greenhouse gas standards for new electric utility generating units on September 20, 2013, did DOE officials or staff raise concerns regarding EPA's proposed requirement of carbon capture and storage (CCS) technologies for new coal-fired power plants?
 - a. Did DOE officials or staff raise concerns that CCS technologies for new coal-fired power plants are not adequately demonstrated?
 - b. Did DOE officials or staff raise concerns that CCS technologies for new coal-fired power plants are not currently ready for widespread commercial deployment?
 - c. Did DOE officials or staff raise concerns that the costs of CCS technologies that would be needed for new coal-fired power plants to comply with the rule are prohibitively expensive?
 - d. Did DOE officials or staff raise concerns about the commercial feasibility of the proposed standards for new coal-fired power plants?

The Honorable Joe Barton

1. What is the average cost of construction and operation of a coal-fired power plant that would comply with current EPA regulations?
 - a. What percentage of the total cost is directed toward emissions control?
 - b. What studies or analyses does EPA rely on for these estimates?

2. What is the average cost of construction and operation of a coal-fired power plant that would comply with the recently proposed carbon dioxide emissions standards (not factoring revenue from sale of CO₂)?
 - a. What percentage of the total cost is directed toward emissions control?
 - b. What percentage of the cost of emission control is directed toward injection and storage of CO₂?
 - c. What studies or analyses does EPA rely on for these estimates?
3. What is the status of EPA's proposal to exclude geologically sequestered CO₂ from regulation under the Resource Conservation and Recovery Act's hazardous waste program?
 - a. Given the great deal of legal and regulatory uncertainty surrounding geologic storage and liability protection, please describe how EPA accounted for these costs.