

ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

March 12, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator McCarthy:

We write to notify you that the Committee on Energy and Commerce and its Subcommittee on Oversight and Investigations are investigating the Environmental Protection Agency (EPA) decision-making process relating to the agency's consideration of carbon capture technologies in developing greenhouse gas emissions standards for new power plants.

On September 20, 2013, you signed EPA's re-proposed "Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units" pursuant to section 111 of the Clean Air Act (CAA).<sup>1</sup> Section 111 authorizes EPA to set emissions standards for certain listed stationary sources and pollutants, but EPA may only impose emissions standards that would require the use of technologies that have been "adequately demonstrated." In the proposed rule, EPA makes a number of references to three government-funded carbon capture and sequestration (CCS) power plant projects under the Department of Energy's Clean Coal Power Initiative, including one project under construction and two planned projects. In light of these references, the Committee Chairman and Subcommittee on Energy and Power Chairman, along with other Members, wrote you on November 15, 2013 concerning the statutory limits to the consideration of these projects in EPA's development of emissions standards under section 111.<sup>2</sup>

We continue to have questions about EPA decisions concerning (a) agency consideration of CCS technologies, and the information derived from use of these technologies, at facilities that have been receiving federal funding or tax credits authorized by the Energy Policy Act of 2005; (b) EPA's reliance on these federally supported facilities and technologies for the purpose

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<sup>1</sup> See "Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units," 79 Fed. Reg. 1430 (January 8, 2014); see also "Notice of Data Availability" 79 Fed. Reg. 10750 (Feb. 26, 2014) and "Technical Support Document" dated Jan. 8, 2014.

<sup>2</sup> See Letter from Energy and Commerce Committee to Administrator Gina McCarthy, November 15, 2013.

of proposing emissions performance standards under section 111 of the Clean Air Act; and (c) information from the Department of Energy and other agencies relating to EPA's consideration of these facilities and technologies for the purposes of standard-setting.

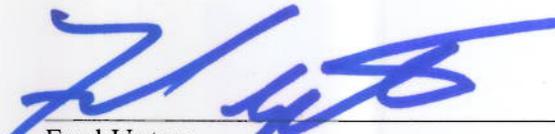
At this time, we seek information to evaluate EPA's adherence to statutory obligations and responsibilities, including adherence to the relevant statutory prohibitions relating to the consideration of certain facilities and technologies receiving federal assistance under the Energy Policy Act of 2005. Accordingly, pursuant to Rules X and XI of the U.S. House of Representatives, we ask that you provide responsive documents and written responses to the following requests by March 28, 2014:

1. On December 23, 2010, EPA announced settlement agreements committing EPA to issue New Source Performance Standards (NSPS) to address greenhouse gas emissions from fossil fuel-fired power plants and petroleum refineries.
  - a. Explain when EPA launched its Action Development Process for developing the regulatory proposals that would address these commitments to issue NSPS standards.
  - b. Provide all documents EPA prepared to initiate this regulatory development process, including all preliminary and final Analytic Blueprints and any other planning or guidance documents covering the approach, scope, underlying technical criteria, legal criteria, and review mechanisms EPA would follow for developing these NSPS regulatory proposals and Technical Support Documents.
2. Provide the names and titles of all individuals at EPA responsible for evaluating the application of provisions of the Energy Policy Act of 2005 (EPAAct05) to the agency's pending NSPS proposals for power plants, including EPAAct05 sections 402(i), 421(a), or 1307.
3. Provide all documents in the possession, custody, and control of EPA containing communications between or among EPA officials, employees, or contractors relating to EPAAct05 sections 402(i), 421(a), or 1307, including, but not limited to, letters and email.
4. Provide all documents in the possession, custody, and control of EPA containing communications between or among EPA, the Department of Energy (DOE), the Department of the Treasury, or the Office of Management and Budget relating to EPAAct05 sections 402(i), 421(a), or 1307, including, but not limited to, letters and email.
5. Provide all documents in the possession, custody, and control of EPA relating to EPAAct05 sections 402(i), 421(a), or 1307, including, but not limited to, notes, analyses, reports, and memoranda, and all drafts of such documents.
6. Provide all documents in the possession, custody, and control of EPA containing communications between or among EPA and the Department of Energy (DOE) referring or relating to any facility receiving assistance under DOE's Clean Coal Program, Clean Coal Power Initiative, or any program or funding referenced by EPAAct05 sections 402, 421, or 1307, including, but not limited to, letters and email.

7. Provide all documents in the possession, custody, or control of EPA containing communications between or among EPA and the officials, employees or contractors of any facility receiving assistance under DOE's Clean Coal Program, Clean Coal Power Initiative, or any program or funding related to EPCA sections 402, 421, or 1307, including, but not limited to, letters and email.
8. Provide all documents in the possession, custody, and control of EPA referring or relating to any facility or technology receiving assistance under DOE's Clean Coal Program, Clean Coal Power Initiative, or any program or funding related to EPCA sections 402, 421, or 1307, including, but not limited to, notes, analyses, reports, and memoranda, and all drafts of such documents.

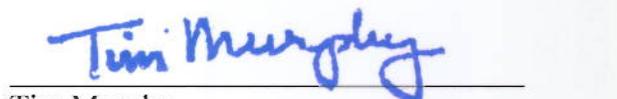
We appreciate your prompt attention to this request. Instructions for responding to the Committee's document requests are included as an attachment to this letter. Should you have any questions, please contact Karen Christian or Peter Spencer of the Majority Committee staff at (202) 225-2927.

Sincerely,



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Fred Upton  
Chairman



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Tim Murphy  
Chairman  
Subcommittee on Oversight and Investigations



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Ed Whitfield  
Chairman  
Subcommittee on Energy and Power



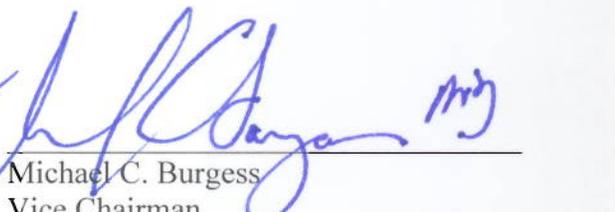
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Joe Barton  
Chairman Emeritus



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Marsha Blackburn  
Vice Chairman



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Michael C. Burgess  
Vice Chairman  
Subcommittee on Oversight and Investigations

Letter to the Honorable Gina McCarthy

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Attachment

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Diana DeGette, Ranking Member  
Subcommittee on Oversight and Investigations

The Honorable Bobby Rush, Ranking Member  
Subcommittee on Energy and Power