

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

September 23, 2014

The Honorable Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Secretary Moniz:

In March, the Committee on Energy and Commerce began investigating whether certain federal agency decisions concerning clean coal technology have complied with the Energy Policy Act of 2005 (EPAc05). We initiated this inquiry to examine Environmental Protection Agency (EPA) decision-making related to the agency's consideration of carbon capture technologies in developing greenhouse gas emissions standards for new power plants. At issue was whether EPA's development of the 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), reflected a proper application of the law.

Information developed in our investigation has raised questions about EPA's compliance with EPAc05, which strictly prohibits consideration of carbon capture technologies at facilities that have received federal funding to be "adequately demonstrated" under section 111 of the CAA. In particular, both documents reviewed by Committee staff and briefings with agency officials indicate EPA was not aware of these statutory limitations when it was developing the proposed standards. EPA's failure to identify and faithfully apply EPAc05 statutory limitations when it decided to propose standards for new power plants in September 2013 raises questions about the underlying quality and integrity of its analyses.

The Secretary of Energy is responsible for establishing and carrying out EPAc05's Clean Coal Power Initiative and for helping to implement certain EPAc05 authorized clean coal tax provisions. In light of this, we seek to examine the Department of Energy's implementation of EPAc05 provisions relating to clean coal technologies and the information it developed for or shared with other federal entities relating to these provisions, particularly sections 402 and 1307 of EPAc05. 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 October 7, 2014:

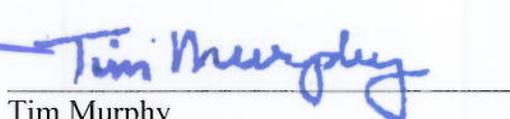
1. Provide all legal memoranda, analyses, or reports prepared by DOE's Office of General Counsel or any other DOE office or laboratory, concerning the interpretation, application, or implementation of the following EPOA provisions:
 - a. The Clean Coal Power Initiative, Section 401 *et seq.*, and
 - b. Credit for Investment in Clean Coal Facilities, Section 1307.
2. Section 402(b)(3) of EPOA requires the Secretary of Energy to consult with the Administrator of the Environmental Protection Agency on technical milestones for the Clean Coal Power Initiative. Please provide records of all consultations with EPA pursuant to this provision and all documents reflecting the substance of information and comments shared in these consultations.
3. Provide all documents in the possession of DOE containing communications between and among officials, employees, or contractors of DOE and the officials, employees, or contractors of the EPA, the Department of Treasury, or the Office of Management and Budget relating to EPOA sections 402(i) and 1307 including, but not limited to, correspondence, memoranda, and email.
4. Provide all documents in the possession of DOE containing communications between and among DOE officials, employees, or contractors referring or relating to the EPA's April 2012 or September 2013 proposed "Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units," including, but not limited to, correspondence, memoranda, and email.

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,



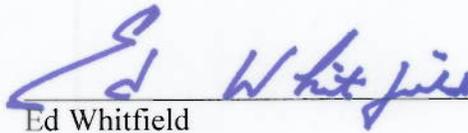
Fred Upton
Chairman



Tim Murphy
Chairman
Subcommittee on Oversight and Investigations



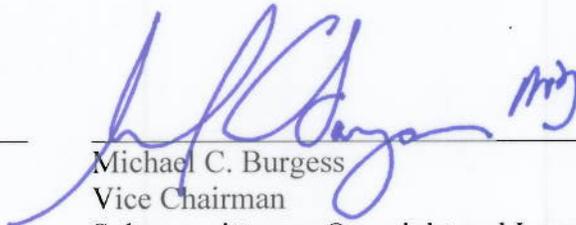
Joe Barton
Chairman Emeritus



Ed Whitfield
Chairman
Subcommittee on Energy and Power



Marsha Blackburn
Vice Chairman



Michael C. Burgess
Vice Chairman
Subcommittee on Oversight and Investigations

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