

Unions for Jobs & Environmental Progress

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U.S. Environmental Protection Agency
Docket ID No. EPA-HQ-OAR-2025-0124
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

July 11, 2025

Via E-Mail to www.regulations.gov

Re: Proposed Repeal of Greenhouse Gas Emission Standards for
Fossil Fuel-fired Power Plants
90 Fed. Reg. 25752 (June 17, 2025)

Ladies & gentlemen:

Unions for Jobs & Environmental Progress (UJEP) represents hundreds of thousands of workers in electric generation, construction and maintenance, mining, rail transportation and other energy-related industries. Our members' families and communities would be adversely impacted by EPA's greenhouse gas (GHG) emission standards. We are writing in support of the proposed "alternative" repeal of the carbon pollution standards (CPS) promulgated by EPA.

UJEP is an independent ad hoc association of labor unions involved in energy production and use, transportation, engineering, and construction. Our members supporting these comments are: International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers Union; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; Transportation Communications Union (TCU/IAM); United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, and United Mine Workers of America. For more information about us, visit www.ujep4jobs.org

UJEP members worked closely with senior EPA staff during the development of this rule, offering constructive control options that would avoid major adverse impacts on our members. While these discussions appeared helpful at the time, we were disappointed by the massive job losses in the electric generation and mining sectors that would result from the final rule. We believe that the rule is unlawful and exceeds EPA's regulatory authority under the Clean Air Act.

Support for "Alternative" Basis for Repeal

Our comments support the "alternative" basis for repeal set forth by EPA, relying on the inherent deficiencies and illegal requirements of the final CPS rule as developed in the record before the D.C. Circuit in *West Virginia, et al v. EPA* (USCA No. 24-1120). We object to the rule's infeasible 90% carbon capture and storage and 40% natural gas cofiring subcategories, together with the "exempt" category of sources not choosing either of these options. Those sources, representing virtually the entire remaining coal-based generation fleet, are subject to a mandatory 2032 retirement date. Non-performance by retirement is not a "standard of performance" called for by section 111 of the CAA.

Moreover, such a massive loss of generation capacity by 2032 would create severe reliability problems in many areas of the country, along with the unacceptable loss of tens of thousands of direct and indirect jobs dependent upon the continued operation of the plants targeted for retirement.

In May, the National Electric Reliability Council (NERC) published its [2025 Summer Reliability Assessment](#) which “finds an elevated risk of supply shortfalls during wide-area heat waves and abnormal weather conditions like those that have occurred in recent summers. As a result, system operators in many parts of North America could face challenges meeting peak electricity demand.”

Repealing the CPS rule would help to avoid such future electricity shortfalls. We believe that EPA's alternative option could withstand judicial scrutiny based upon the record developed before the D.C. Circuit Court of Appeals in *West Virginia et al. v. EPA*, currently in abeyance. It is consistent with the major issues identified in state and industry Petitioners' main brief in this case, such as EPA's reliance on technologies that have not been "adequately demonstrated."

We take no position on the appropriate level of emission standards for new gas turbines, apart from support for rescinding the CCS requirement for units with

capacity factors of 40% or higher. This CCS requirement is a major impediment to the construction of new gas combined cycle plants that will be needed to maintain reliability in many regions of the country.

Concerns About Endangerment Finding Option

On the other hand, we have concerns about EPA's broader repeal option tied to a repeal of the endangerment finding for fossil fuel power plants. EPA is proposing in this option to find that emissions from fossil fuel power plants do not contribute significantly to dangerous air pollution impacting health and welfare. EPA claims that carbon emissions from U.S. power generation contribute only 3% of global carbon emissions, while overall U.S. utility emissions have decreased substantially over the past two decades and our overseas competitors are planning to increase their use of coal generation.¹ With these trends in mind, EPA's endangerment finding proposal would repeal a broad swath of GHG regulations:

- o New Source Performance Standards (NSPS) for coal and gas power plants, promulgated on October 23, 2015,
- o NSPS for coal-fired steam generating units undertaking a large modification and NSPS for new gas power plants promulgated in the Carbon Pollution Standards (CPS) on May 9, 2024, and
- o Emission guidelines for existing coal-, oil-, and gas-fired steam generating units, also promulgated in the CPS on May 9, 2024.

We see little clear and compelling evidence in this record that 3% represents a defensible level of contribution relative to an endangerment finding for the entire fossil generation sector. We thus are concerned that tying repeal of the existing source provisions of the CPS to repeal of the endangerment finding could encounter judicial resistance, jeopardizing repeal of the CPS rule. We recall in this regard EPA's previous unsuccessful effort to establish 3% as a threshold level for application of New Source Performance Standards.²

¹ See, 90 Fed. Reg. 25768 (June 17, 2025).

² See, Pollutant-Specific Significant Contribution Finding for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units, and Process for Determining Significance of Other New Source Performance Standards Source Categories, 86 FR 2542 (vacated and remanded on other grounds, 4/5/21).

A Separate Rulemaking?

Challenging the endangerment finding for fossil electric generation sources would impact other EPA regulations that were not at issue in the current litigation, such as the 2015 NSPS requiring partial CCS at new coal-fired power plants. The current litigation was focused intensively on provisions of the CPS rule that do not comply with Clean Air Act requirements and applicable case law.

We respectfully suggest that if EPA wishes to pursue the repeal of the endangerment finding that it initiate a separate notice-and-comment rulemaking, providing parties with full comment, briefing, and oral argument opportunities. This would provide a much stronger record in support of the agency's position than introducing the issue at this late stage of litigation focused on the CPS rule.

Looking Ahead

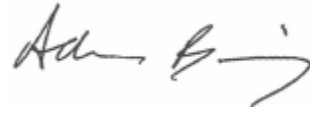
The U.S. needs to retain leadership in electric generation and related emission control technologies to ensure a balanced energy future for nuclear, natural gas, coal, geothermal and other technologies. EPA should recognize that the coal plants afforded additional operating lifetimes under the proposed repeal rule eventually will retire and will need to be replaced by advanced coal technologies. These older plants typically have thermal efficiencies of 33% to 38%, compared with 60% for new gas combined cycle units.

A public-private partnership is needed to bring coal plant efficiencies closer to the level of gas combined cycle units. For example, improved integrated coal gasification with combined cycles (IGCC) could achieve 50% thermal efficiency. The U.S. is short on IGCC experience, and new design improvements could yield competitive generation options in this and other advanced fossil technologies.

We thus encourage EPA to consider the longer-term needs of the coal generation sector in the development of new rules for coal plants, through budget and non-budget means such as emissions trading and bonus allowances. Assuring a way forward beyond the retirement of the existing coal fleet would help ensure reliability as well as energy dominance.

UJEP will appreciate your attention to these comments. Please do not hesitate to call if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Banig". The signature is fluid and cursive, with a long horizontal stroke at the end.

Adam Banig
President, UJEP