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U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Submitted electronically at <http://www.regulations.gov>

**Attn: Docket ID No. EPA-HQ-OAR-2017-0545**

**Re: State Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units**

The American Coal Council (“ACC”) submits these comments in response to the Environmental Protection Agency’s (“EPA”) Federal Register Notice of December 28, 2017 of its advance notice of proposed rulemaking (“ANPRM”) regarding State Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units. The ACC has been in existence for 36 years and represents the collective business interests of the American coal industry. Our members include mining companies and suppliers, transportation companies and terminals, electric utilities and industrial coal consumers, and many industry support services providers. Since our member companies touch every aspect of turning one of America’s most abundant resources into reliable and affordable electricity for the United States economy, our Association has first-hand knowledge of the direct and indirect impacts of coal-related regulations and a unique, “boots on the ground” perspective. Coal is also integral to the steel-making process and the industrial production of cement, chemicals, and paper. Our diverse membership base encompasses the entire coal supply chain, and it is from this broad perspective that we assess the impacts of regulations impacting coal supply and use.

ACC filed comments with EPA on January 15, 2018 supporting EPA’s proposed rule to repeal the Carbon Pollution Emission Guidelines for Existing Stationary Sources for Electric Utility Generating Units, otherwise referred to as the Clean Power Plan (“Clean Power Plan” or “CPP”). In the January 15, 2018 filing, we referenced our comments previously submitted to EPA on November 24, 2014 in response to the proposed Clean

Power Plan, wherein we expressed grave concerns about the detrimental impacts and lack of benefits of regulating CO<sub>2</sub> emissions as EPA initially designed the rule. The Clean Power Plan as proposed and later finalized is unworkable – lengthy, complex, ambiguous and over-reaching. With its controversial “outside the fence line” approach, the rule would transform how electricity is produced, distributed, transmitted, and used in the United States. It would inappropriately place EPA in the role of energy regulator, rather than environmental regulator.

ACC’s January 15, 2018 comments discussed economic implications and job loss, reliability and resilience, energy independence and security, coal plant efficiency improvements, and air quality and health impacts. As we noted, the CPP would limit fuel choices for electric generators, which has significant implications from an economic, business, and consumer standpoint. Coal is key to maintaining a robust, competitive fuels marketplace which keeps energy priced affordably for consumers, supports grid reliability and resilience, and provides energy security. Implementation of the Clean Power Plan would unnecessarily strand and shutter coal power plants. Investments already made for emissions reduction from those plants would be wasted.

With the Clean Power Plan, EPA made a choice to depart completely from prior Clean Air Act §111 regulations that were based on a Best System of Emissions Reduction (“BSER”) using operating or technical methods to achieve compliance at a single power generation source. Instead, EPA devised a BSER that would be applied nationwide across the electricity grid, and used “building blocks” to suggest how states could comply with the reduced CO<sub>2</sub> emissions standards EPA set. In practical terms, this would entail a nationwide compliance strategy of forcing the power sector away from coal, treating natural gas as a bridge or transition fuel, and unwisely and unrealistically relying on energy efficiency and renewables to continue to provide electricity on-demand 24/7/365.

Widespread opposition by policy makers, legislators, businesses, and many others to the Clean Power Plan has been based on the inappropriateness of EPA’s attempt to regulate in this fashion, and the severe and costly implications of doing so. Legal challenges were filed immediately. The U.S. Supreme Court issued a stay of the rule in February 2016, halting all regulatory deadlines. This stay was unprecedented as it was the first time the Supreme Court granted a stay before the lower court ruled on a case – demonstrating serious concerns about the rule by our nation’s highest court.

EPA’s ANPRM has requested comment on what should be included as it considers a future rule for greenhouse gas emissions (likely, as it notes, expressed as carbon dioxide/CO<sub>2</sub> emissions) as a possible replacement to the Clean Power Plan.

As EPA considers a replacement of the CPP, we urge consideration of an approach in conformity with a traditional interpretation of the Clean Air Act on an “inside the fence line” basis. This would limit emissions reductions to measures that can be implemented at the

source – a single stationary power generation source or electric generating unit (“EGU”). Any such measures must be based on a physical or operational change to a building, structure, facility, or installation at the source.

Further, establishing the standard of performance must also reflect a traditional interpretation of the BSER – one that has been adequately demonstrated and considers the cost of achieving the greenhouse gas/CO<sub>2</sub> emissions levels.

The BSER should be focused on efficiency (heat rate) improvements at existing EGUs. It should be established on the basis of: 1) commercially available, technologically proven, and cost effective equipment modifications and 2) good operations and maintenance practices. Carbon Capture and Storage (“CCS”) or partial CCS should not be required as a compliance technology because it is neither adequately demonstrated nor cost-effective at this time. However, its current very narrow use should be allowed as part of a compliance program as should its future use if CCS becomes scalable and cost effective.

Due to the variation in the EGUs comprising the U.S. coal generating fleet, we urge EPA not to consider establishing the BSER as a single or one-size-fits-all method or set of measures from either an equipment, technology, or operational practice standpoint. Coal EGUs vary in age and operating performance. Additionally, continuing changes in the fleet make-up and dispatch mean that many coal units are operating with increasing frequency as cycling units rather than as baseload. The multitude of differences in units and operational performance characteristics support a unit-by-unit approach in determining control technologies, equipment modifications or upgrades, or operating practice changes.

The prospect of equipment modifications or upgrades and operational changes at existing EGUs necessarily brings with it a major concern – the impact of New Source Review (“NSR”). The NSR program for obtaining preconstruction permits in real-world application is lengthy, time-consuming, and costly. The time, cost, risk, and uncertainty resulting from EPA’s enforcement of the program is a huge disincentive to advancing projects to improve efficiency and reduce emissions. Thus if a physical or operational change to comply with a CPP replacement rule is considered likely to trigger NSR under the existing program, it is almost certain that the unit would be shut down rather than the owner/operator even attempting to make such a change for compliance purposes. Therefore, reform of the NSR program must occur so that affected EGUs under a CPP replacement rule can confidently plan for installation and implementation of projects or measures to improve efficiency and emissions.

Other measures or technologies such as converting coal to natural gas, other fuel switching, or co-firing should not be considered to be part of the BSER, as these would fundamentally alter a coal EGU. This, in turn, could negatively affect the appropriate mix of generation resources needed to reliably meet electricity demand at the company, state, regional, or national level.

As EPA considers a possible replacement rule, the American Coal Council appreciates this opportunity to provide our perspective on ways to address the overreach of the Clean Power Plan and the need for appropriate interpretation and application of Clean Air Act provisions for regulating emissions at the single stationary power generation source level and establishment of BSER technologies or operational measures focused on efficiency (heat rate) improvements.