

HENRY A. WAXMAN, CALIFORNIA,
CHAIRMAN

TOM LANTOS, CALIFORNIA
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
CAROLYN B. MALONEY, NEW YORK
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA
STEPHEN F. LYNCH, MASSACHUSETTS
BRIAN HIGGINS, NEW YORK
JOHN A. YARMUTH, KENTUCKY
BRUCE L. BRALEY, IOWA
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
BETTY MCCOLLUM, MINNESOTA
JIM COOPER, TENNESSEE
CHRIS VAN HOLLEN, MARYLAND
PAUL W. HODES, NEW HAMPSHIRE
CHRISTOPHER S. MURPHY, CONNECTICUT
JOHN P. SARBANES, MARYLAND
PETER WELCH, VERMONT

ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
FACSIMILE (202) 225-4784
MINORITY (202) 225-5074

www.oversight.house.gov

TOM DAVIS, VIRGINIA,
RANKING MINORITY MEMBER

DAN BURTON, INDIANA
CHRISTOPHER SHAYS, CONNECTICUT
JOHN M. McHUGH, NEW YORK
JOHN L. MICA, FLORIDA
MARK E. SOUDER, INDIANA
TODD RUSSELL PLATTS, PENNSYLVANIA
CHRIS CANNON, UTAH
JOHN J. DUNCAN, JR., TENNESSEE
MICHAEL R. TURNER, OHIO
DARRELL E. ISSA, CALIFORNIA
KENNY MARCHANT, TEXAS
LYNN A. WESTMORELAND, GEORGIA
PATRICK T. McHENRY, NORTH CAROLINA
VIRGINIA FOXX, NORTH CAROLINA
BRIAN P. BILBRAY, CALIFORNIA
BILL SALI, IDAHO
JIM JORDAN, OHIO

June 9, 2008

The Honorable Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Johnson:

I am writing regarding the potential global warming effects of EPA's proposed rule to revise the new source review regulations for power plants under the Clean Air Act.¹ The proposal to weaken these regulations would worsen air quality in many areas. I am requesting information on the degree to which EPA's proposed changes would also increase emissions of global warming pollution and exacerbate global warming.

The new source review regulations require new and modified large stationary sources of air pollution that increase their emissions to install up-to-date pollution control technology. As proposed, EPA's revisions to these regulations would change the test for determining whether a power plant that is modified will increase its emissions of air pollutants and therefore whether it will be required to install pollution controls. Under the current regulations, EPA evaluates whether the total amount of pollution emitted by the plant each year would increase. EPA is now proposing that even if the plant ran more hours and annual pollution increased, this would not matter as long as there was no increase in the amount of pollution emitted by the plant on an hourly basis.

The effect of these changes would be to allow old, very dirty power plants to increase the amount of time they operate each year without installing pollution controls. As a result, in many cases their annual emissions will increase, exacerbating pollution problems.² In addition, these

¹ U.S. EPA, *Supplemental Notice of Proposed Rulemaking for Prevention of Significant Deterioration and Nonattainment New Source Review: Emission Increases for Electric Generating Units*, 72 Fed. Reg. 26202 (May 8, 2007) (hereinafter "SNPR"); U.S. EPA, *Prevention of Significant Deterioration, Nonattainment New Source Review, and New Source Performance Standards: Emissions Test for Electric Generating Units, Proposed Rule*, 70 Fed. Reg. 61081 (October 20, 2005).

² See American Lung Ass'n et al, *Comments on EPA's Proposed "Supplemental Notice of Proposed Rulemaking for Prevention of Significant Deterioration and Nonattainment New*

plants will extend their life-spans for decades. This perpetuates dirty, existing pollution sources that have much higher emissions than new sources, which are generally more efficient and are required to install up-to-date pollution controls. It also gives these dirty old sources a competitive advantage in the power generation market, making it less likely that new, cleaner plants will be built.³

As a result, it appears extremely likely that the effect of this rule will be to increase emissions of global warming pollution. I would like to know whether EPA is taking this likely effect into account in deciding whether to continue this rulemaking, and if so, in developing the final rule. Specifically, please respond to the following questions and requests for information:

1. Has EPA modeled, analyzed, or evaluated in any way, the effect of its proposed rule, including both the initial and supplemental proposals, on greenhouse gas emissions from power plants?
2. If your response to question 1 is yes, please address the following questions:
 - a. In evaluating the rule's effects on greenhouse gas emissions, has EPA projected and quantified the effect of creating incentives to extend the lives of existing plants rather than replacing those plants with new plants?
 - b. In evaluating the rule's effects on greenhouse gas emissions, has EPA projected and quantified the effect of reducing generation costs through improving plant performance and thereby increasing the use of the plant relative to other generation sources?
 - c. In conducting such analyses, has EPA evaluated the effects of each of EPA's alternative proposals?
 - d. Has EPA made any or all of this information available for public comment? If yes, which analyses has EPA made available to the public, and which has EPA withheld? If no, will you provide an opportunity for public comment on these analyses and their results?

Source Review: Emissions Increases for Electric Generating Units, 72 Fed. Reg. 26,202 (May 7, 2007), 46-64 (Aug. 15, 2007). See also SNPR at 26208-26213 (acknowledging some increases in emissions are possible but arguing that they will be small).

³ See, e.g., *Comments from National Association of Clean Air Agencies on EPA's "Supplemental Notice of Proposed Rulemaking for Prevention of Significant Deterioration and Nonattainment New Source Review: Emissions Increases for Electric Generating Units,"* 7 (Aug. 3, 2007).

The Honorable Stephen L. Johnson
June 9, 2008
Page 3

3. If your response to question 1, 2a, 2b, or 2c is no, please address the following questions:
 - a. Why has EPA not conducted such analyses?
 - b. Will EPA commit to conduct such analyses, including developing the information identified in question 2 above, and provide an opportunity for public comment on them prior to finalizing the rule? If no, why not?
4. Please provide all of the technical analyses and modeling that EPA has conducted to date evaluating the effect of the proposed rule, including both the initial and supplemental proposals, on greenhouse gas emissions from power plants. For any of this information that EPA may have already made publicly available, a weblink or other reference to the publicly available information is sufficient.

Please provide this information by June 30, 2008. In addition, please include this letter and your response in the record for this rulemaking (including any technical analyses provided that EPA does not identify as pre-deliberative and request the Committee not to release).

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. An attachment to this letter provides additional information about how to respond to the Committee's request.

If you have any questions concerning this request, please have your staff contact Alexandra Teitz of the Committee staff at (202)-225-4407. Thank you for your assistance in this matter.

Sincerely,



Henry A. Waxman
Chairman

Enclosure

cc: Tom Davis
Ranking Minority Member