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RECEIVED
U.S. COURT OF APPEALS
FOR THE D.C. CIRCUIT

2015 DEC 22 PM 4: 53

FILING DEPOSITORY

December 22, 2015

BY MESSENGER

Hon. Mark J. Langer
Clerk
United States Court of Appeals
for the District of Columbia Circuit
Room 5523
333 Constitution Avenue, NW
Washington, DC 20001-2866

Re: Competitive Enterprise Institute, et al. v. Environmental Protection Agency

Dear Mr. Langer:

Enclosed for filing in connection with the above-referenced matter, please find one original and four copies of a Petition for Review with an excerpt of the challenged final agency action, Rule 26.1 Disclosure Statement, and a check for \$500.00 in payment of the filing fee.

Thank you for your assistance.

Sincerely yours,



Adam R.F. Gustafson
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Enclosures

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U.S. COURT OF APPEALS
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IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

COMPETITIVE ENTERPRISE
INSTITUTE; BUCKEYE INSTITUTE
FOR PUBLIC POLICY SOLUTIONS;
INDEPENDENCE INSTITUTE; RIO
GRANDE FOUNDATION;
SUTHERLAND INSTITUTE; KLAUS
J. CHRISTOPH; SAMUEL R.
DAMEWOOD; CATHERINE C.
DELLIN; JOSEPH W. LUQUIRE;
LISA R. MARKHAM; PATRICK T.
PETERSON; and KRISTI
ROSENQUIST,

Petitioners,

Case No. _____

v.

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY; and GINA McCARTHY,
ADMINISTRATOR, UNITED
STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondents.

PETITION FOR REVIEW

Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C.

§ 7607(b)(1), Section 702 of the Administrative Procedure Act, 5 U.S.C.

§ 702, Rule 15 of the Federal Rules of Appellate Procedure, and Circuit Rule 15, the following organizations and individuals hereby petition for review of the final action of Respondent United States Environmental Protection Agency published in the *Federal Register* at 80 Fed. Reg. 64,662 (Oct. 23, 2015) and entitled “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units”: the Competitive Enterprise Institute, the Buckeye Institute for Public Policy Solutions, the Independence Institute, the Rio Grande Foundation, the Sutherland Institute, Klaus J. Christoph, Samuel R. Damewood, Catherine C. Dellin, Joseph W. Luquire, Lisa R. Markham, Patrick T. Peterson, and Kristi Rosenquist.

December 22, 2015

Respectfully submitted,



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*Co-counsel for Petitioner Buckeye Institute
for Public Policy Solutions*

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-HQ-OAR-2013-0602; FRL-9930-65-OAR]

RIN 2060-AR33

Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, the Environmental Protection Agency (EPA) is establishing final emission guidelines for states to follow in developing plans to reduce greenhouse gas (GHG) emissions from existing fossil fuel-fired electric generating units (EGUs). Specifically, the EPA is establishing: Carbon dioxide (CO₂) emission performance rates representing the best system of emission reduction (BSER) for two subcategories of existing fossil fuel-fired EGUs—fossil fuel-fired electric utility steam generating units and stationary combustion turbines; state-specific CO₂ goals reflecting the CO₂ emission performance rates; and guidelines for the development, submittal and implementation of state plans that establish emission standards or other measures to implement the CO₂ emission performance rates, which may be accomplished by meeting the state goals. This final rule will continue progress already underway in the U.S. to reduce CO₂ emissions from the utility power sector.

DATES: This final rule is effective on December 22, 2015.

ADDRESSES: *Docket.* The EPA has established a docket for this action under Docket No. EPA-HQ-OAR-2013-0602. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available (e.g., confidential business information (CBI) or other information for which disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. The telephone number for the Public

Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www2.epa.gov/dockets>.

World Wide Web. In addition to being available in the docket, an electronic copy of this final rule will be available on the World Wide Web (WWW). Following signature, a copy of this final rule will be posted at the following address: <http://www.epa.gov/cleanpowerplan/>. A number of documents relevant to this rulemaking, including technical support documents (TSDs), a legal memorandum, and the regulatory impact analysis (RIA), are also available at <http://www.epa.gov/cleanpowerplan/>. These and other related documents are also available for inspection and copying in the EPA docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Vasu, Sector Policies and Programs Division (D205-01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541-0107, facsimile number (919) 541-4991; email address: vasu.amy@epa.gov or Mr. Colin Boswell, Measurements Policy Group (D243-05), Sector Policies and Programs Division, U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541-2034, facsimile number (919) 541-4991; email address: boswell.colin@epa.gov.

SUPPLEMENTARY INFORMATION:

Acronyms. A number of acronyms and chemical symbols are used in this preamble. While this may not be an exhaustive list, to ease the reading of this preamble and for reference purposes, the following terms and acronyms are defined as follows:

ACEEE American Council for an Energy-Efficient Economy
 AEO Annual Energy Outlook
 AFL-CIO American Federation of Labor and Congress of Industrial Organizations
 ASTM American Society for Testing and Materials
 BSER Best System of Emission Reduction
 Btu/kWh British Thermal Units per Kilowatt-hour
 CAA Clean Air Act
 CBI Confidential Business Information
 CCS Carbon Capture and Storage (or Sequestration)
 CEIP Clean Energy Incentive Program
 CEMS Continuous Emissions Monitoring System
 CHP Combined Heat and Power
 CO₂ Carbon Dioxide
 DOE U.S. Department of Energy
 ECMPs Emission Collection and Monitoring Plan System
 EE Energy Efficiency
 EERS Energy Efficiency Resource Standard

EGU Electric Generating Unit
 EIA Energy Information Administration
 EM&V Evaluation, Measurement and Verification
 EO Executive Order
 EPA Environmental Protection Agency
 FERC Federal Energy Regulatory Commission
 ERC Emission Rate Credit
 FR Federal Register
 GHG Greenhouse Gas
 GW Gigawatt
 HAP Hazardous Air Pollutant
 HRSG Heat Recovery Steam Generator
 IGCC Integrated Gasification Combined Cycle
 IPCC Intergovernmental Panel on Climate Change
 IPM Integrated Planning Model
 IRP Integrated Resource Plan
 ISO Independent System Operator
 kW Kilowatt
 kWh Kilowatt-hour
 lb CO₂/MWh Pounds of CO₂ per Megawatt-hour
 LBNL Lawrence Berkeley National Laboratory
 MMBtu Million British Thermal Units
 MW Megawatt
 MWh Megawatt-hour
 NAAQS National Ambient Air Quality Standards
 NAICS North American Industry Classification System
 NAS National Academy of Sciences
 NGCC Natural Gas Combined Cycle
 NO_x Nitrogen Oxides
 NRC National Research Council
 NSPS New Source Performance Standard
 NSR New Source Review
 NTTAA National Technology Transfer and Advancement Act
 OMB Office of Management and Budget
 PM Particulate Matter
 PM_{2.5} Fine Particulate Matter
 PRA Paperwork Reduction Act
 PUC Public Utilities Commission
 RE Renewable Energy
 REC Renewable Energy Credit
 RES Renewable Energy Standard
 RFA Regulatory Flexibility Act
 RGGI Regional Greenhouse Gas Initiative
 RIA Regulatory Impact Analysis
 RPS Renewable Portfolio Standard
 RTO Regional Transmission Organization
 SBA Small Business Administration
 SCC Social Cost of Carbon
 SIP State Implementation Plan
 SO₂ Sulfur Dioxide
 Tg Teragram (one trillion (10¹²) grams)
 TSD Technical Support Document
 TTN Technology Transfer Network
 UMRA Unfunded Mandates Reform Act of 1995
 UNFCCC United Nations Framework Convention on Climate Change
 USGCRP U.S. Global Change Research Program
 VCS Voluntary Consensus Standard

Organization of This Document. The information presented in this preamble is organized as follows:

- I. General Information
 - A. Executive Summary
 - B. Organization and Approach for This Final Rule

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

COMPETITIVE ENTERPRISE
INSTITUTE; BUCKEYE INSTITUTE
FOR PUBLIC POLICY SOLUTIONS;
INDEPENDENCE INSTITUTE; RIO
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J. CHRISTOPH; SAMUEL R.
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UNITED STATES
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AGENCY; and GINA McCARTHY,
ADMINISTRATOR, UNITED
STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondents.

RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure
and Circuit Rule 26.1, Petitioners Competitive Enterprise Institute,

Buckeye Institute for Public Policy Solutions, Independence Institute, Rio Grande Foundation, and Sutherland Institute, make the following disclosure:

The Competitive Enterprise Institute (CEI) is a nonprofit organization incorporated in Washington D.C. under Section 501(c)(3) of the Internal Revenue Code. CEI focuses on advancing market approaches to regulatory issues. No parent company or publicly-held company has a 10% or greater ownership interest in CEI.

The Sutherland Institute is a nonprofit organization incorporated in Utah under Section 501(c)(3) of the Internal Revenue Code. The Sutherland Institute is a public policy think tank committed to influencing Utah law and policy based on the core principles of limited government, personal responsibility, and charity. No parent company or publicly-held company has a 10% or greater ownership interest in the Sutherland Institute.

The Independence Institute is a nonprofit organization incorporated in Colorado under Section 501(c)(3) of the Internal Revenue Code. The Independence Institute is a public policy think tank whose purpose is to educate citizens, legislators, and opinion makers in

Colorado about policies that enhance personal and economic freedom. No parent company or publicly-held company has a 10% or greater ownership interest in the Independence Institute.

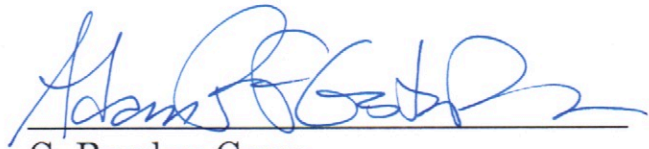
The Buckeye Institute for Public Policy Solutions is a nonprofit organization incorporated in Ohio under Section 501(c)(3) of the Internal Revenue Code. The Buckeye Institute seeks to improve Ohio policies by performing research and promoting market-oriented policy solutions. No parent company or publicly-held company has a 10% or greater ownership interest in the Institute.

The Rio Grande Foundation is a nonprofit organization incorporated in New Mexico under Section 501(c)(3) of the Internal Revenue Code. The Rio Grande Foundation is a research institute dedicated to increasing liberty and prosperity for New Mexico's citizens. No parent company or publicly-held company has a 10% or greater ownership interest in the Rio Grande Foundation.

December 22, 2015

Respectfully submitted,

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*Co-counsel for Petitioner Buckeye Institute
for Public Policy Solutions*

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of December, 2015, I caused a copy of the foregoing Petition for Review and Rule 26.1 Disclosure Statement to be served by placing them in the U.S. mail, first class, postage prepaid, upon each of the following:

U.S. Environmental Protection Agency
Correspondence Control Unit
Office of General Counsel (2311)
1200 Pennsylvania Ave., NW
Washington, DC 20460

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, 1101A
1200 Pennsylvania Ave., NW
Washington, DC 20460

Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington DC 20530-0001


Adam R.F. Gustafson