

The Honorable Lee Zeldin, Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

In the Matter of Request for Comments for the Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units

The American Consumer Institute (ACI) is a nonprofit 501(c)(3) education and research organization. Its mission is to identify, analyze, and protect the interests of consumers in legislative and rulemaking proceedings. ACI supports market-driven solutions that maximize economic growth and improve consumer welfare. A strong, robust economy benefits all individuals; energy is a pivotal piece of that equation. ACI promotes policies that bolster energy abundance, reliability, and affordability in order for households and businesses to not only live but thrive.

ACI is submitting these comments regarding the recent announcement from the Environmental Protection Agency (EPA) to repeal the Biden-Harris regulations for power plants, commonly referred to as the Clean Power Plan (CPP) 2.0.

CPP 2.0 should never have been enacted; its dismantling is completely warranted. Not only does the regulation pose questions of legality, CPP 2.0 threatens electric grid reliability and affordability, putting consumers across the country at risk of energy shortages and skyrocketing rate increases. The unrealistic legislation additionally imperils economic growth and vitality, jeopardizing businesses and jobs across a variety of sectors.

CPP 1.0 was Deemed Unconstitutional; CPP 2.0 is Similar

The Obama administration instituted the first CPP with the goal to reduce carbon emissions from power plants by establishing the first national limits on carbon pollution from power plants.¹ Using section 111(d) of the Clean Air Act (CAA), the legislation sought to regulate existing power plants by compelling states to alter electricity generation.

¹ Environmental Protection Agency, "FACT SHEET: Overview of the Clean Power Plan," Accessed July 21, 2025, <https://archive.epa.gov/epa/cleanpowerplan/fact-sheet-overview-clean-power-plan.html>.

In the 2022 *West Virginia v. EPA* decision, the Supreme Court struck down CPP 1.0 ruling that the EPA cannot use the CAA to require fossil fuel power facilities to implement "generation shifting" without express authorization from Congress.² Generation shifting would have required a shift in electricity production from certain fossil fuel power generation sources (primarily coal and natural gas) to other sources that emit less carbon dioxide. The CAA does not grant the EPA power to command the reordering of the nation's power sector.

The Court held that under its "major-questions" doctrine, such consequential regulation must be based on clear congressional authorization, a standard that the CPP did not meet. Congress would need to clearly assign an agency the authority to make decisions of vast economic and political significance.

As the current EPA puts it, "the major questions doctrine barred EPA from misusing the Clean Air Act to manipulate Americans' energy choices and shift the balance of the nation's electrical fuel mix."³

CPP 2.0 similarly attempts to regulate power generation through agency fiat, using section 111(d) of the CAA to target the electric utility sector. However, its carbon reduction goals are significantly more ambitious and include specific requirements like carbon capture and storage (CCS) for coal-fired plants that plan to operate long-term as well as for new baseload natural gas plants.

CPP 2.0 goes beyond regulating emissions from individual power plants and instead once again seeks to transform the entire electricity sector by requiring states to shift their power generation. The rule asks existing coal and new natural gas power plants to do the impossible: Install and operate CCS to capture 90 percent of their CO₂ emissions or face closure.

Such major policy decisions affect the economy, the environment, and the energy security of the nation. Just like the first clean power plan rule, CPP 2.0 also violates the major questions doctrine. The EPA lacks clear congressional authorization to impose the high costs and feasibility challenges associated with CCS.

Other legal challenges surround Clean Power Plan 2.0. CCS has not been adequately demonstrated. The negative consequences these regulations potentially have on the energy sector and consumers are substantial: Ratepayers could experience price hikes and energy shortages.

² *West Virginia v. Environmental Protection Agency*, 597 U.S. 697 (2022).

³ Environmental Protection Agency, "EPA Proposes Repeal of Biden-Harris EPA Regulations for Power Plants, Which, If Finalized, Would Save Americans More than a Billion Dollars a Year," News Release, June 11, 2025, <https://www.epa.gov/newsreleases/epa-proposes-repeal-biden-harris-epa-regulations-power-plants-which-if-finalized-would>.

Carbon Capture Has Not Been Adequately Demonstrated

The legislation requires that coal plants and any new gas plant capture and store at least 90 percent of its carbon dioxide (CO₂) emissions using CCS.⁴ The idea that CO₂ can be captured, transported, and then stored in underground wells remains extremely complex, expensive, and largely unsuccessful despite decades of research and development. Only a handful of functioning CCS facilities operate worldwide, and they only capture approximately 0.1 percent of global emissions, a tiny fraction of what experts had projected.⁵

According to a recent report from the Institute for Energy Economics and Financial Analysis, there are less than three dozen active CCS projects in the world; numerous projects have been cancelled or simply failed to materialize.⁶ Only two coal-fired power plants and one gas-fired plant capture CO₂, none of which come close to a 90 percent capture rate or are commercially viable.

CCS upfront costs are still significantly expensive without evidence that they will decrease in the future, and the more “successful” projects show ongoing risks which negate their benefits.⁷ Containment issues and potential leaks still pose threats to various CCS projects.

Upon CPP 2.0’s finalization, former Secretary of Energy and then-president of Edison Electric Institute (EEI) Dan Brouillette stated the technology “is not yet ready for full-scale, economy-wide deployment, nor is there sufficient time to permit, finance, and build the CCS infrastructure needed for compliance by 2032.”⁸ Despite the organization’s commitment to clean energy technologies, EEI filed a lawsuit which it believed to be “necessary to protect customers from regulations that rely on not-yet-demonstrated technology and unrealistic compliance timelines.”⁹

Fossil fuel plants will not be able to meet the thresholds and will be forced to close. This jeopardizes 60 percent of current electricity generation; roughly 43 percent and 16 percent of the mix is comprised of natural gas and coal, respectively.¹⁰ Fossil fuels have remained a major source of electricity in the U.S. for decades. This will not change overnight.

It is unreasonable to base legislation on technology lacking merit. CCS is still not widely available or successful. It is also misguided to assume wind and solar can successfully supply the energy needs of the largest economy in the world.

⁴ Zachary Rempel et al, “Unpacking Carbon Capture and Storage: The technology behind the promise,” International Institute for Sustainable Development, November 28, 2023, <https://www.iisd.org/articles/insight/unpacking-carbon-capture-storage-technology>.

⁵ Katie Lebling et al, “7 Things to Know About Carbon Capture, Utilization and Sequestration,” World Resources Institute, May 16, 2025, <https://www.wri.org/insights/carbon-capture-technology>.

⁶ Kevin Morrison, “The Good, the Bad, and the Ugly Reality about CCS,” Institute for Energy Economics and Financial Analysis, December 3, 2024, https://ieefa.org/sites/default/files/2024-03/CCSPresentation4-MPCMarch24_CK.pdf.

⁷ Ibid.

⁸ Ella Nilson and Jen Christensen, “Biden Administration Finalizes New Rules for Power Plants in One of its Most Significant Climate Actions to Date,” CNN, May 1, 2024, <https://www.cnn.com/2024/04/25/climate/biden-epa-power-plant-rule-climate>.

⁹ Benjamin Storrow and Jean Chemnick, “Why EEI is trying to Kill Biden’s Climate Rule,” E&E News, May 24, 2024, <https://www.eenews.net/articles/why-eei-is-trying-to-kill-bidens-climate-rule/>.

¹⁰ U.S. Energy Information Administration, “What is U.S. Electricity Generation by Energy Source?” Last updated February 29, 2024, <https://www.eia.gov/tools/faqs/faq.php?id=427&t=3>.

Wind and Solar are Expensive and Unreliable

A common misconception regarding renewable energy is that it is cheap, reliable, and abundant. Actual data shows otherwise. States that incorporate wind and solar as a large portion of their energy mix tend to see electricity rates surge and experience energy shortages.

California serves as a prime example. Research shows that as wind and solar energy levels began rising above five percent, California electricity prices began skyrocketing.¹¹ In 2022, when renewable energy generation rose above 25 percent, the average electricity price was 81 percent higher than the national average. In 2008, when the contribution was only three percent, the Golden State's average electricity price was roughly 28 percent higher than the national average. Even though their rates have been slightly higher than the rest of the nation for some time, the rapid adoption of renewables dramatically increased their electricity prices.

New Jersey has also experienced electricity rate hikes that are attributable to the state's increasing adoption of renewable energy sources like wind and solar.¹² With one of the most ambitious Renewable Portfolio Standards (RPS) in the country, New Jersey is requiring 35 percent renewable energy by 2025 and 50 percent by 2030.¹³

Statistical modeling shows that five of the New England states pursuing aggressive RPS standards—Connecticut, Maine, Massachusetts, Vermont, Rhode Island—will see residential electricity prices more than double by 2050.¹⁴ New England families' annual electricity costs will increase by \$2,574 above 2024 costs. This comes as a result of rapid buildouts of wind turbines (both onshore and offshore) and solar accompanied by significant natural gas scale backs.

Rate increases are attributed to the substantial capital costs of wind and solar, operations and maintenance, associated taxes, transmission, and backup generation.¹⁵ The amount of wind, solar and battery storage must be overbuilt to account for the intermittency of wind and solar.

Several experts have confirmed the exorbitant price increases when implementing wind and solar and that "they become more expensive the higher their penetration in the energy system."¹⁶

High energy costs disproportionately hurt low-income households; families forced to spend more discretionary income to heat and cool their homes become energy poor, a condition which affects roughly half the country.¹⁷ At a time when many are struggling to recover from record-high inflation, increased electricity rates could be devastating.

¹¹ Mitch Rolling and Isaac Orr, "Electricity Prices are Soaring: It's Time to Hold the 'Energy Transition' Accountable," Energy Bad Boys, January 6, 2024, [a](#).

¹² Charles Creitz, "NJ Residents Hit with Doubled Bills as Lawmakers Fume at Murphy's 'Energy Disaster Plan,' Demand hearings," Fox News, August 29, 2024, [a](#).

¹³ State of New Jersey Department of Environmental Protection, Greenhouse Gas Emissions, Last Updated April 30, 2025, [a](#).

¹⁴ Isaac Orr et al, "The Staggering Costs of New England's Green Energy Policies," Always On Energy Research, September 2024, [a](#).

¹⁵ Ibid.

¹⁶ Lars Schemikau et al, "Full Cost of Electricity and Energy Returns," Journal of Management and Sustainability; Vol. 12, No. 1; 2022, August 2022.

¹⁷ Kristen Walker, "Increasing Number of Households are Considered Energy Poor," American Consumer Institute, October 9, 2024, [a](#).

Rolling blackouts and shortages are also fairly common among states/regions with a sizeable RPS. California, for instance, has asked its residents to turn up their thermostats, unplug appliances, and dim lights at peak times during heat waves.¹⁸ Officials admitted the alerts to conserve energy were “due to some uncertainty about how much production we will have from our renewable resources.”

Texas Winter Storm Uri in February 2021 left millions without power and several hundred dead. Weather-dependent sources failed, and without readily available coal, the power grid was minutes away from total collapse.¹⁹ When Storm Elliot ripped through the Southeast in December 2022, several major utilities had to implement rolling outages to preserve supply.²⁰ Coal provided nearly 40 percent of the increased additional electricity generated nationwide, emphasizing the importance fossil fuels play during extreme weather events.

The North American Electric Reliability Corporation’s (NERC) annual Long-Term Reliability Assessments continually warn of blackouts during extreme weather events or peak usage, largely due to ambitious decarbonization efforts which are attempting to rapidly replace fossil fuel plants with wind and solar.²¹ The most recent report asserts “natural-gas-fired generators are a vital Bulk Power Supply resource” because they are “a dispatchable electricity supply for winter and times when wind and solar resources are less capable of serving demand.”

A July Department of Energy (DOE) report confirms NERC’s conclusions. Generation retirements coupled with less dependable replacements will cause disruptions, substantially increasing the risk of power outages.²² An intervention is necessary if the U.S. is to meet projected load growth while maintaining a reliable power grid and low energy costs.

Fossil fuel energy sources provide crucial grid reliability, affordability, and stability. Premature retirements will inflate electricity rates and cause power interruptions and failures, which in some cases, could be catastrophic and devastating. Their continued employment is critical to meet the ongoing needs of consumers and the demands of a robust economy.

Our Energy Needs are Growing, Not Shrinking

U.S. electricity consumption is on the rise and demand is expected to grow by 25 percent by 2030 and by 78 percent by 2050, compared to 2023.²³ Such rapid growth is fueled by the influx of power-hungry data centers needed to house artificial intelligence (AI).

¹⁸ Grace Toohey, “California’s 9th Straight Flex Alert was Extended as Smoke, Clouds Made Solar Power Unpredictable,” Los Angeles Times, September 8, 2022, <https://www.latimes.com/california/story/2022-09-08/california-flex-alert-to-last-longer-on-9th-straight-day>.

¹⁹ Chuck Devore, “Texas’ Blackouts—Here’s the Truth about Why They Happened and What We Have to Do Next,” Fox News, March 2, 2021, <https://www.foxnews.com/opinion/texas-blackouts-why-happened-truth-chuck-devore>.

²⁰ Energy Venture’s Analysis, “Operation of the U.S. Power Generation Fleet During Winter Storm Elliott,” America’s Power, February 2023, <https://americaspower.org/wp-content/uploads/2023/02/Operation-of-the-U.S.-Power-Generation-Fleet-During-Winter-Storm-Elliott.pdf>.

²¹ North American Electric Reliability Corporation, “2024 Long-Term Reliability Assessment,” December 2024, https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_Long%20Term%20Reliability%20Assessment_2024.pdf.

²² U.S. Department of Energy, “Evaluating the Reliability and Security of the United States Electric Grid,” July 2025, <https://www.energy.gov/sites/default/files/2025-07/DOE%20Final%20EO%20Report%20%28FINAL%20JULY%207%29.pdf>.

²³ Lalit Batra, et al., “Rising Current: America’s Growing Electricity Demand,” ICF International, June 9, 2025, <https://www.icf.com/insights/energy/impact-rapid-demand-growth-us>.

Data center construction is being hastened and is projected to increase in the coming years to satisfy the needs of a rapidly changing tech world. AI requires round the clock, uninterrupted power.

Such demands reiterate the need for expanding baseload power without sacrificing reliability. The July DOE report declares that the “status quo” of accelerated power plant retirements with substitutions of intermittent renewable energy sources is “unsustainable.”²⁴ The existing approach cannot meet forthcoming demands and without intervention, “it is impossible for the nation’s bulk power system to meet the AI growth requirements while maintaining a reliable power grid.”

The U.S is in an AI race with China that we must win. The winner sets the rules for the AI age, and if we don’t lead, China will. The U.S. must stay on top. And that means the construction of and energy for the vast number of data centers required to meet those demands. We cannot afford to play politics with energy nor rely on inferior sources.

The current administration is also taking steps to reindustrialize the U.S. economy by bringing back more manufacturing to our shores; inadequate energy resources would hinder that development. Other nations are making the mistake of decommissioning reliable baseload power while turning toward an overreliance on expensive renewable energy; those economies have suffered stagnant growth and deindustrialization.²⁵ The U.S. cannot follow in those footsteps and must refocus efforts on proven sources that supply dispatchable, dependable, and affordable energy.

Nuclear energy may be a safe and clean energy option, and will certainly play a greater role in the future, but those complex and capital-intensive facilities can take up to ten years or more to complete.²⁶ This does not help with immediate needs.

Fossil fuels, particularly natural gas, are essential in supplying cheap, abundant, and reliable energy to meet growing demand. Premature power plant retirements coupled with a dependence on the inferiority of wind and solar would be detrimental to these endeavors. If the U.S. wants to remain competitive on the global stage, we must be wise in our electricity generation.

²⁴ U.S. Department of Energy, July 2025.

²⁵ Rupert Darwall, “The Folly of Climate Leadership: Net Zero and Britain’s DISASTROUS ENERGY POLICIES,” Real Clear Foundation, December 2023, [a](#).

²⁶ Lucy Ashton, “Successful Techniques to Cut Nuclear Construction Times Showcased at IAEA General Conference,” International Atomic Energy Agency, October 3, 2023, [a](#).

Emissions have Significantly Improved

Over the last several decades, the U.S. power sector has been successful in reducing emissions from key pollutants, even during periods of increased demand. Thanks to the shale and fracking revolution in the early 2000s, natural gas has become more readily available, replacing numerous coal plants throughout the country.

Overall carbon emissions have dropped at least 14 percent since 2005, and those associated with the power sector have dropped 33 percent because natural gas has displaced significant amounts of coal-fired plants.²⁷ A Berkeley Labs report found that natural gas is responsible for approximately 48 percent of the sector's emissions reductions since 2005.²⁸ Natural gas emits roughly half the carbon dioxide of coal and negligible amounts of sulfur, mercury, and particulates.

The processes for shipping and manufacturing natural gas are constantly improving. Methane levels associated with natural gas continue to drop due to increased investments in pipeline infrastructure, which reduce and minimize leaks.²⁹ Since 1990, methane emissions have fallen roughly 70 percent in natural gas distribution systems and 35 percent in natural gas transmission and storage—despite booming demand. Methods will only continue to improve through continued investment and innovation.

Market-based solutions should drive the electricity sector. The shale revolution, for instance, completely revolutionized oil and natural gas production. Natural gas has proven to be a solid choice for electricity generation: By replacing significant amounts of coal, natural gas is still providing reliable power on-demand while drastically reducing emissions.

Pollution control retrofits to the remaining coal plants are also aiding in curbing emissions. As of 2023, nearly 90 percent of all coal capacity featured one or more pollution control technologies in the form of scrubbers and selective catalytic reduction.³⁰

Efficiency will continue to improve and should be given the opportunity to thrive. Stringent power plant requirements will stifle innovation. Market-driven ideas can only develop and flourish in environments free from overregulation; government intervention must be minimal.

²⁷ Nicole Jacobs, "EPA: Oil and Natural Gas Methane Emissions Fall Despite Record Production," *Energy In Depth*, April 19, 2021, [a](#).

²⁸ Ryan Wiser, "Halfway to Zero," *Lawrence Berkely National Laboratory*, April 2021, [a](#).

²⁹ Nicole Jacobs, 2021.

³⁰ U.S. Environmental Protection Agency, "Power Sector Evolution," Last Updated June 3, 2025, [a](#).

Strict policies also run the risk of pushing companies overseas, relocating them and their associated employment opportunities to nations with much less rigorous environmental standards. This is counterproductive and will only drive up global emissions and pollutant levels, decimate communities and economies here at home, and put the U.S. at a competitive disadvantage.

Renewable energy is often sold as a clean alternative, but research demonstrates significant environmental repercussions if extensively implemented.³¹ These sources negatively impact land, species, and air through intensive mineral mining and manufacturing processes. It is questionable whether renewables are environmentally superior to natural gas.

Conclusion

ACI urges the repeal of CPP 2.0 to protect consumers from costly, unreliable energy mandates and unrealistic technological expectations. The regulation not only exceeds the EPA's legal authority under the Clean Air Act, but also jeopardizes electric grid reliability, economic growth, and U.S. competitiveness in the global AI and manufacturing race.

While emission reductions remain a vital goal, it should be pursued through proven market-driven innovations rather than government overreach. The U.S. must prioritize abundant, affordable, and dispatchable energy to meet rising energy demands, maintain national security, and procure a robust economic future.

Thank you for the opportunity to submit these comments.

Respectfully,

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³¹ Kristen Walker, "Clearing the Air: Honest Truths About Clean Energy," American Consumer Institute, August 6, 2024, file:///C:/Users/krisw/Downloads/Clearing-the-Air-Honest-Truths-About-Clean-Energy.pdf.