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Powering Strong Communities

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November 2, 2026

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
Mail Code 28221T
1200 Pennsylvania Ave. N.W.
Washington, D.C. 20460

Submitted electronically via the *Federal eRulemaking Portal*: https://www.regulations/gov

RE: Comments of the American Public Power Association on the Rescission of the Greenhouse Gas Findings for Fossil Fuel-Fired Power Plants and Repeal of Regulations for Power Plant Greenhouse Gas Emissions Under Clean Air Act Section 111 (91 Fed. Reg. 59,002, September 17, 2026); Docket ID No. EPA-HQ-OAR-2025-0124

Dear Administrator Zeldin,

On behalf of the American Public Power Association (APPA), I am pleased to submit the enclosed comments on EPA's Supplemental Proposal.[1] APPA is the trade association for not-for-profit, community-owned electric utilities that serve more than 55 million people nationwide. Many of our members own and operate the fossil fuel-fired electric generating units that the proposal would affect.

APPA's comments address two key issues. First, EPA should promptly initiate a separate rulemaking to revise the Phase 1 combustion turbine standards in 40 C.F.R Part 60, Subpart TTTTa, regardless of the Agency's final action on the Supplemental Proposal. EPA should also commit to establishing achievable standards if the broader repeal does not withstand judicial review. Second, APPA agrees that EPA did not make the source category listing and pollutant-specific significant contribution finding that Clean Air Act section 111(b)(1)(A) required.

These issues are critical to public power. APPA members have nearly 8.9 GW of new generation in development to meet growing electricity demand and need achievable standards and regulatory certainty to bring these projects online affordably and reliably.

We appreciate the opportunity to comment and welcome further discussion. Please contact me at 202-467-2900 or CSlaughter@publicpower.org with any questions.

[1] 91 Fed. Reg. at 59,002 (September 17, 2026) (Supplemental Proposal).

Sincerely,



Carolyn Slaughter
Sr. Director, Environmental Policy
American Public Power Association

CC: Abigale Tardif, Acting Assistant Administrator, Office of Air and Radiation, EPA
Lisa Tompson, Industrial Process and Power Division, Office of Clean Air Programs, EPA

I. Introduction

The American Public Power Association (APPA or Association) respectfully submits comments to the U.S. Environmental Protection Agency (EPA or Agency) in response to its supplemental proposed rulemaking notice titled, *Rescission of the Greenhouse Gas Findings for Fossil-Fuel Fired Power Plants and Repeal of the Regulations for Power Plant Greenhouse Gas Emissions Under Clean Air Act Section 111* (Supplemental Proposal).[2]

The Supplemental Proposal addresses the new source performance standards (NSPS) for greenhouse gas (GHG) emissions from new, modified, and reconstructed fossil fuel-fired electric generating units (EGUs) that EPA promulgated in 2015[3] and 2024[4] under section 111(b) of the Clean Air Act (CAA or Act). The 2024 Rule also established emission guidelines under CAA section 111(d) for existing coal-, gas-, and oil-fired steam generating units.[5] APPA, in conjunction with a coalition of electric utility interests, has challenged the 2015 and 2024 GHG NSPS that the Agency now proposes to repeal.[6]

APPA is a trade association composed of not-for-profit, community-owned utilities that provide electricity to 2,000 towns and cities nationwide. APPA protects the interests of the more than 55 million people that public power utilities serve, and the 100,000 people they employ. APPA advocates and advises on electricity policy, technology, trends, training, and operations. The Association and its members have a strong interest in CAA regulations, including those that regulate GHG emissions. Our members own and operate fossil fuel-fired EGUs that are the subject of the regulations the Supplemental Proposal would repeal. APPA and its members have been actively engaged with EPA regarding the regulations of GHG emissions from fossil fuel fired EGUs under section 111 of the CAA and have submitted extensive comments on all major rulemakings.[7] For these reasons, APPA and its members have an interest in the Supplemental Proposal.

APPA's comments address two related issues: timely correction of the Phase 1 combustion turbine standards to ensure their achievability, and a legally sound resolution of the statutory deficiencies underlying section 111 GHG regulations. EPA should address the immediate compliance concerns independently of its broader repeal effort.

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[2] *Id*.

[3] Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units, 80 Fed. Reg. 64,510 (Oct. 23, 2015) (2015 NSPS).

[4] 89 Fed. Reg. 39,798 (May 9, 2024) (2024 Rule).

[5] 40 CFR Part 60, Subpart UUUUb.

[6] *West Virginia v. EPA*, No. 24-1120 (and consolidated cases) (D.C. Cir.) (challenge to 2024 Rule); *North Dakota v. EPA*, No. 15-1381 (and consolidated cases) (D.C. Cir.) (challenge to 2015 Rule). Both cases are currently being held in abeyance pending EPA's reconsideration of the 2024 Rule and the 2015 Rule.

[7] See APPA's Comments on the New Source Performance Standards for Greenhouse Gas Emissions From New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions From Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule, 88 Fed. Reg. 33,240 (May 23, 2023) EPA-HQ-OAR-2023-0072-0566; APPA's Comments on the Supplemental Notice of Proposed Rulemaking, 88 Fed. Reg 80,682 (November 20, 2023) EPA-HQ-OAR-2023-0072-8231; APPA's Comments on the Proposed Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. at 25,752 (June 17, 2025) EPA-HQ-OAR-2025-0124-2299.

A. EPA's Partial Repeal Leaves Key Issues with New Combustion Turbine Standards Unresolved

In June 2025, EPA proposed repealing GHG standards for fossil fuel-fired power plants under CAA section 111.[8] The proposal included a primary option to repeal all power-sector GHG standards, based on the Agency's view that fossil fuel-fired EGUs do not contribute significantly to climate-related air pollution to warrant regulation under section 111, and an alternative option to rescind key portions of the 2024 Rule. In the final rule issued concurrently with this Supplemental Proposal, EPA finalized its alternative approach to partially repeal the 2024 Rule.[9] The Partial Repeal Rule revised the best system of emission reduction (BSER) determinations for certain fossil fuel-fired EGU subcategories, amended Subpart TTTTa, and repealed Subpart UUUUb. The final rule also repealed the NSPS for coal-fired steam generating units that undertake a large modification and the Phase 2 NSPS for new baseload combustion turbines, which were based on carbon capture and storage (CCS).

The Agency has indicated it will address comments on the broader primary option in a future final action and is issuing the Supplemental Proposal to seek further comment on whether it lacks authority under CAA section 111 to regulate GHG emissions from fossil fuel-fired power plants. However, the Partial Repeal Rule did not make the needed adjustments to the Phase 1 standards for new intermediate and baseload combustion turbines.[10] In the Partial Repeal Rule, EPA acknowledged concerns regarding 2024 efficiency-based Phase 1 standards for new combustion turbines and stated that finalizing the Supplemental Proposal would resolve stakeholders concerns about the achievability of the standards.[11] Until then, however, these standards create immediate challenges for utilities building new generation to meet unprecedented growth in electricity demand.

B. Public Power Needs Achievable Standards and Durable Regulatory Certainty

Public power utilities are diversifying investments to meet growing electricity demand affordably and reliably while responding to fuel costs, technological advances, supply chain constraints, customer expectations, and government policies. Population growth, economic development, electrification, advanced manufacturing, and data centers are increasing the need for dependable capacity. Utilities are building, acquiring, and contracting for natural gas, solar, hydropower, and battery resources; evaluating nuclear and geothermal options; and investing in energy efficiency, demand management, and distributed resources.[12] APPA reported nearly 8.9 gigawatts (GW) of public power-owned generation in development at the end of 2025, up 7 percent from the prior year, excluding storage projects.[13] The North American Electric

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[8] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units; 90 Fed. Reg. at 25,752 (June 17, 2025)(2025 Proposed Repeal Rule).
[9] Partial Repeal of the Carbon Pollution Standards for Fossil Fuel-Fired Electric Generating Units; 91 Fed. Reg. at 58,954 (September 17, 2026) (Partial Repeal Rule).
[10] *Id*. at 58,956.
[11] *Id*.
[12] Lisa Cohn, *Planning, Flexibility, and Public Trust: How Public Power Is Advancing New Projects*, American Public Power Association (Jan. 29, 2026) https://www.publicpower.org/periodical/article/planning-flexibility-and-public-trust-how-public-power-advancing-new-projects.
[13] Association Staff, *What's in Public Power's Pipeline?*, American Public Power Association (Jan. 27, 2026) What's in Public Power's Pipeline? | American Public Power Association.

Reliability Corporation's (NERC) latest completed Long-Term Reliability Assessment projects summer and winter peak demand increases of 224 GW and approximately 245 GW, respectively, over the next decade and warns that delays in bringing resources online risk leaving additions short of demand growth.[14]

These investments require a stable, predictable, and legally durable regulatory framework. Public power utilities plan generation, transmission, grid modernization, and other infrastructure investments decades in advance. Regulatory certainty supports prudent resource planning, efficient capital allocation, and investment schedules that minimize customer costs while maintaining reliability. Conversely, shifting requirements can disrupt planning, alter investment decisions, and increase costs for assets expected to serve customers for decades.[15]

The Agency must not allow its broader rulemaking to delay addressing the acknowledged concerns about the achievability of the Phase 1 standards.[16] Most evaluated units—including most aeroderivative units and all frame units—failed to meet the selected emission rate, and several turbine classes were excluded from the analysis. Reliance on three aeroderivative models therefore provides an insufficient basis for a standard covering all turbine types.[17]

Irrespective of the Agency's final action on the Supplemental Proposal, EPA should revise the Phase 1 NSPS for new intermediate and baseload combustion turbines as soon as practicable. Leaving these standards in place could constrain generation needed to meet growing electricity demand and increase costs for public power customers. Many utilities would be left operating new turbines as low-load units below a 20 percent annual capacity factor. This restriction would limit available generation and could require utilities to install additional combustion turbines at substantially greater cost, without meaningful emission benefits.

The consequences are particularly significant in energy-only markets. While generators in capacity markets may be able to recover the costs of building multiple units that operate at capacity factors below 20 percent, ultimately passing those costs on to customers, generators in energy-only markets have no comparable assurance of cost recovery. Faced with the prospect of constructing units that may operate less than 20 percent of the time, developers may simply choose not to build. The result could be fewer new resources at precisely the time electricity demand is increasing, with serious implications for resource adequacy and grid reliability.

EPA should promptly initiate a separate rulemaking to revise the Phase 1 standards to address concerns regarding their achievability. The Agency should also commit to establishing achievable standards if the broader repeal does not survive judicial review. Public power utilities need timely relief and durable regulatory certainty to invest in needed generation while maintaining reliable, affordable service.

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[14] North American Electric Reliability Corporation, *2025 Long Term Reliability Assessment* (Jan. 29, 2026) at 9.
[15] Cohn, *Planning, Flexibility, and Public Trust: How Public Power Is Advancing New Projects*, discussing project delays, cost increases, and regulatory uncertainty.
[16] APPA's Comment on the 2025 Proposed GHG Repeal at 38, See Attachement 2, technical report tilted, *Analysis of Combustion Turbine CO2 Emission Rates Under the 2024 Greenhouse Gas (GHG) New Source Performance Standards (NSPS) for Fossil-Fired EGUs*, EPA-HQ-OAR-2025-0124-2299.
[17] *Id*. at 38-52.

II. Deficiencies in the 2015 Rule

Separate from the immediate need to revise the Phase 1 standards, the Supplemental Proposal raises foundational questions about the statutory basis for EPA's section 111 GHG regulations. APPA addresses below the source-category listing and pollutant-specific findings that the Agency was required to make before establishing those standards. The Supplemental Proposal, finds that the Agency's 2015 NSPS failed to properly list the newly created fossil fuel-fired EGU source category and make the required GHG-specific significant contribution finding.[18]

A. EPA's Combination of Two Source Categories Required a New Listing Under CAA Section 111(b)(1)(A)

Before 2015, the Agency regulated fossil fuel-fired steam generators and combustion turbines as separate source categories with separate NSPS and promulgated separate NSPS for non-GHG emissions from those source categories.[19] In 2015, EPA combined portions of those categories into a single source category to regulate GHG emissions under Subpart TTTT. The Agency maintained that this action did not create a new category requiring a separate listing under CAA section 111(b)(1)(A) and issued standards under section 111(b)(1)(B).[20] Twenty-five states, labor unions, and industry parties, including APPA, challenged that position in the D.C. Circuit, where the case remains in abeyance.[21]

EPA now proposes to conclude that the 2015 NSPS rule created a new source category without satisfying the statutory listing requirements. Section 111(b)(1)(A) requires the Agency to determine that a category "causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare."[22] This requires both an endangerment determination for the pollutant and a finding that emissions from the source category cause or significantly contribute to that pollution—even when the sources were previously listed under other categories.

EPA's prior listings did not satisfy these requirements. Those listings addressed nitrogen oxide (NOx), sulfur dioxide (SO_2), and particulate matter—not GHGs. Although EPA attempted to support its 2015 NSPS with the 2009 Endangerment Finding and global climate analyses, the Agency now considers that reliance legally flawed because those analyses arose under a different CAA provision. APPA does not contend that EPA could not or should not make the required finding, only that it failed to do so in 2015. Without that finding and a proper listing, the standards lack the required legal foundation.

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[18] 91 Fed. Reg. at 59,030.
[19] *Id*.
[20] *Id*.
[21] See Opening Brief of Non-State Petitioners at 63-64, ECF No. 1659209, *North Dakota v. EPA*, No. 15-1381 (and consolidated cases) (D.C. Cir. Feb. 3, 2017); State Petitioners' Final Opening Brief at 34-35, ECF No. 1659341, *North Dakota v. EPA*, No. 15-1381 (and consolidated cases) (D.C. Cir. Feb. 3, 2017).
[22] CAA § 111(b)(1)(A), 42 U.S.C. § 7411(b)(1)(A).

B. EPA Must Make a Pollutant-Specific Significant Contribution Finding Before Regulating Emissions from a Listed Source Category

In the Supplemental Proposal, the Agency proposes to conclude that it failed to adequately establish that GHG emissions from fossil fuel-fired power plants cause or significantly contribute to dangerous air pollution.[23] APPA agrees. APPA does not contend that EPA cannot or should not make the required finding. Rather, APPA's position is that the CAA required EPA to make a pollutant-specific finding for carbon dioxide (CO_2) before issuing performance standards for CO_2 emissions from fossil fuel-fired EGUs.

Beginning in 2015 with the GHG NSPS for EGUs, the Agency interpreted section 111(b)(1)(B) as providing EPA with authority to "set a standard for an additional pollutant for a source category that was previously listed and regulated for other pollutants … as long as the EPA has a *rational basis* for setting a standard for the pollutant."[24] This previous interpretation has no foundation in section 111 of the CAA (which does not include the phrase "rational basis") and cannot be considered the "best reading" of that provision.[25]

In the 2015 NSPS rule promulgating Subpart TTTT, EPA conceded that other CAA provisions require endangerment findings for each pollutant regulated, but claimed section 111(b) leads to a different result.[26] This is contrary to the statutory text. Section 111(b)(1)(B) allows EPA to issue performance standards for sources listed under section 111(b)(1)(A).[27] Performance standards, by definition, are tied to a specific pollutant that the Agency has found endangers health or welfare.[28] To find otherwise would give EPA authority to regulate pollutants even if they do not endanger health or welfare, which the U.S. Supreme Court said could not occur.[29]

The legislative history of the CAA confirms Congress viewed the various endangerment sections in CAA as "standardized" provisions and noted that "[t]his same basic formula is used" throughout the statute.[30] In fact, when EPA made its first endangerment finding in 2009 for motor vehicles, it noted that the CAA contains numerous endangerment provisions with "broad similarity in the phrasing of the endangerment and contribution decision."[31]

In sum, section 111(b)(1)(A) requires EPA to find that emissions of an air pollutant from an already listed source category significantly contribute to endangering air pollution before issuing an NSPS.

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[23] 91 Fed. Reg. at 59,030.
[24] 81 Fed. Reg. 35,824, 35,842 (June 3, 2016) (emphasis added) (final rule promulgating NSPS to address methane emissions from the Oil and Natural Gas Production source category).
[25] *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 395-96 (2024).
[26] 80 Fed. Reg. at 64,530 (citing CAA §§ 202(a)(1), 211(c)(1), 231(a)(2)(A), 42 U.S.C. §§ 7521(a)(1), 7545(c)(1), 7571(a)(2)(A)).
[27] CAA § 111(b)(1)(B), 42 U.S.C. § 7411(b)(1)(B).
[28] *See id.* § 111(a)(1), 42 U.S.C. § 7411(a)(1) (defining a "standard of performance" as "a standard for emissions of air pollutants").
[29] *See Massachusetts v. EPA*, 549 U.S. 497, 532-33 (2007) (holding that EPA does not have "a roving license to ignore the statutory text"); *see generally id.* at 532-35.
[30] H.R. Rep. No. 95-294 at 50 (1977), *reprinted in* 4 COMM. PRINT, A LEGISLATIVE HISTORY OF THE CLEAN AIR ACT AMENDMENTS OF 1977 at 2517 (1978).
[31] 74 Fed. Reg. 66,496, 66,507 (Dec. 15, 2009).

III. Conclusion

Public power utilities need achievable standards and regulatory certainty to build needed generation, meet growing demand, and maintain reliable, affordable electricity for their communities. APPA appreciates the opportunity to comment on EPA's Supplemental Proposal and welcomes further discussion with the Agency. For questions or to arrange a discussion with APPA and its members, please contact Carolyn Slaughter at 202-467-2900 or email CSlaughter@publicpower.org.