

Attachment A

SRP Comments in Response to EPA's Proposed Rule Related to Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units – Docket ID No. EPA-HQ-OAR-2013-0495



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May 9, 2014

EPA Docket Center
U.S. EPA, Mail Code 2822T
1200 Pennsylvania Ave. NW
Washington, DC 20460
Attn: Docket ID No. EPA-HQ-OAR-2013-0495

RE: *SRP Comments in Response to EPA's Proposed Rule Related to Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units – Docket ID No. EPA-HQ-OAR-2013-0495*

Dear Sir or Madam:

The Salt River Project Agricultural Improvement and Power District (SRP) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposed rule related to standards of performance for greenhouse gas (GHG) emissions from new electric generating units (EGUs). In addition to the comments provided in this letter, SRP also supports the comments filed by organizations of which SRP is a member including the Utility Air Regulatory Group (UARG), the American Public Power Association (APPA), Western Energy Supply and Transmission Associates (WEST), and the Electric Power Research Institute (EPRI).

SRP is a political subdivision of the State of Arizona that provides retail electric services to nearly one million residential, commercial, industrial, agricultural and mining customers in Arizona. SRP owns and/or operates six coal-fired power plants located in Arizona, New Mexico and Colorado, as well as five natural gas-fired power plants located in Arizona. As a major electric provider, SRP has a strong and significant interest in this rulemaking due to its potential effect on future generation resource decisions.

EPA's current proposal replaces a previous proposal released in 2012. SRP submitted comments on the 2012 proposal articulating concerns with numerous aspects of the rule.

Unfortunately, these concerns have not been alleviated in the revised proposal and it remains legally flawed and technically unsupported. SRP's detailed comments are provided in the following sections of this letter.

The Draft Rule is Flawed and Should be Withdrawn

SRP is troubled by EPA's acknowledgement that this rule will not result in any notable environmental benefits. Specifically, in the preamble of the proposed rule, EPA states:

"The EPA does not anticipate that this proposed rule will result in notable CO₂ [carbon dioxide] emission changes, energy impacts, monetized benefits, costs, or economic impacts by 2022. The owners of newly built electric generating units will likely choose technologies that meet these standards even in the absence of this proposal due to existing economic conditions as normal business practice. Likewise, the EPA believes this rule will not have any impacts on the price of electricity, employment or labor markets, or the U.S. economy."¹

In the absence of environmental benefits, it appears that EPA's overriding reason for proposing the rule is to provide an incentive to promote adoption of CCS technology. However, as EPA is well aware, CCS is a complex, costly and legally challenging technology that will not be adopted when more cost-effective and less complicated generation alternatives are available. Thus, the practical effect of this rulemaking is to remove new coal-fired generation from the country's electric generation resource mix. SRP does not believe it is EPA's role to create energy policy, particularly energy policy that limits the diversity of the United States' energy portfolio. If EPA cannot identify environmental benefits attributable to this rule, there is no reason to proceed with the rulemaking and the rule should be withdrawn.

The Rule Inappropriately Establishes a New National Energy Policy

With this rule, EPA provides regulatory certainty that new coal plants cannot be built unless they can be equipped with CCS technology. This will only be possible, if at all, in small pockets of the United States where a developer can take advantage of financial incentives from the government and utilize local enhanced oil recovery (EOR) opportunities. For states like Arizona that do not have EOR opportunities, and for entities like SRP who cannot take advantage of tax incentives, CCS is not an option.

SRP is concerned that this rule effectively puts all of the country's energy "eggs" in a single basket. While the rule suggests renewable and nuclear resources as other energy solutions, the

¹ See 79 Fed. Reg. at 1,496.

simple fact remains that the majority of renewable energy options are not baseload resources, and, due to other regulatory and financial limitations, there is no significant new nuclear generation planned in the foreseeable future. Without new coal generation, new baseload generation will be predominantly limited to natural gas, which poses its own problems. Natural gas prices have historically fluctuated depending on market conditions, sometimes significantly. For example, APPA pointed out in its comments that from January 8, 2014, the date the proposed rule was published, to March 4, 2014, the price of natural gas increased by 78% nationally. Also, natural gas fracking practices are coming under increasing scrutiny and will likely be subjected to additional environmental regulation that will affect market prices.

Even if natural gas prices remain at the low rates assumed by EPA in its analysis, there are other potential issues related to the transportation and storage of natural gas that could negatively impact the country's gas supply. For example, infrastructure security is a concern in the transport of natural gas. If a major transmission pipeline becomes compromised or unavailable, it could result in detrimental impacts to electricity reliability in a given area. In addition, certain areas of the country lack access to natural gas storage options. EPA failed to appropriately consider these challenges in its analysis.

This rule effectively establishes a new national energy policy that will significantly hamper electric generation diversity in the United States. At a time when coal-fired units are being shuttered at an unprecedented level, limiting options for new baseload plants could detrimentally impact reliability and drive up consumer costs. EPA needs to ensure that this rule does not preclude an adequate supply of reliable, affordable electricity, but instead allows for all energy sources – including coal – to play an important role in meeting our nation's future energy needs. The reliance on a diverse portfolio of fuels has been one of the key reasons why the U.S. electric power sector has been successful in providing abundant, reliable, affordable electricity to power the nation's economic growth and high standards of living.

Carbon Capture and Storage is Not the Best System of Emissions Reduction

In identifying the best system of emissions reduction (BSER) for coal-fired boilers and integrated gasification combined cycle (IGCC) units, EPA chose emission limits that would force new coal boilers to install CCS technology. In the preamble of the proposed rule, EPA acknowledged that this conclusion would preclude facilities from locating in certain areas of the country. However, EPA states that this is not inconsistent with congressional intent.

"For example, if the EPA promulgates section 111 emission limits based on a particular type of technology, and for economic or technical reasons, sources are able to utilize that technology in only certain parts of the country and not other parts, that result should not be viewed as inconsistent with congressional intent for CAA section 111.

Rather, that result is consistent with Congress's recognition that certain sources may be precluded from locating in certain areas."²

SRP respectfully disagrees that EPA's actions are consistent with congressional intent. As UARG points out in its comments, Congress recognized that Section 111 may hamper the ability of air emissions sources to locate in certain places due to *local* air quality issues. Since greenhouse gas emissions are associated with non-local, global effects, the proposed rule fails to comport with Congressional intent.

In establishing BESR, EPA is subject to the restraints of reasonableness. This fact was reiterated in a decision by the Court of Appeals for the D.C. Circuit and was acknowledged by EPA in the preamble of the proposed rule, as noted below.

*"In Essex Chemical Corp. v. Ruckelshaus, 486 F.2d 427, 433 (D.C. Cir. 1973), the D.C. Circuit stated that to be 'adequately demonstrated,' the system must be 'reasonably reliable, reasonably efficient, and . . . reasonably expected to serve the interests of pollution control without becoming exorbitantly costly in an economic or environmental way.'"*³

To date, CCS has not been commercially demonstrated for large-scale applications. Even though individual components may have been demonstrated at various industrial facilities, this does not mean they would work in harmony in support of future coal-fired generation. Also, small-scale demonstrations on a short-term basis do not provide adequate assurance that sources can achieve continuous compliance with an emissions standard on a long-term basis at full-scale. Moreover, the high cost of the CCS technology effectively precludes its deployment even if the outstanding technical limitations could be addressed and the technology was ready for commercial deployment.

The U.S. Department of Energy's (DOE) National Energy Technology Laboratory (NETL) acknowledged that CCS is not ready for implementation at coal-fired power plants in their May 2013 technology update report. Specifically, in that report, DOE/NETL made the following statement:

"There are commercially-available CO₂ capture technologies that are being used in various industrial applications. However, in their current state of development these technologies are not ready for implementation on coal-based power plants for three

² See *Id.* at 1,467.

³ See *Id.* at 1,464.

primary reasons: (1) they have not been demonstrated at the larger scale necessary for power plant application; (2) the parasitic loads (steam and power) required to support CO₂ capture would decrease power generating capacity by approximately one-third; and (3) if successfully scaled-up, they would not be cost effective at their current level of process development.”⁴

Obviously, there are many issues that must be addressed before widespread CCS integration can occur. SRP will leave detailed comment on these issues to other organizations, such as UARG, and focus on the components of EPA’s proposal of particular concern to SRP in the comments that follow.

EPA’s Proposed Rule Does Not Ensure Any GHG Emission Reductions and is Technically Flawed

This proposed rule does not actually reduce GHG emissions at power plants. Instead, it requires EGU owners/operators to simply capture a portion of its CO₂ emissions for transportation off-site to another location where it is to be stored. However, there are no regulations that ensure the CO₂ will actually be capably stored thereby reducing CO₂ emissions to the atmosphere. Without a definitive reduction in CO₂ emissions, the rule fails to provide any environmental benefits, but delivers very real costs.

Furthermore, any emission limit based on CCS implementation is inappropriate. As previously stated, carbon capture is still a young technology and additional research is necessary to overcome the many obstacles preventing it from becoming economically and technically feasible. Much additional work will be required to implement the CO₂ separation processes at full-scale, and a realistic target commercialization date is 2020 or later.

After the technology is commercially demonstrated, a significant investment is required to better characterize and quantify the country’s sequestration capability. Many uncertainties remain with the existing assessment completed by DOE in 2012.⁵ Carbon transport also presents its own challenges, as an advanced pipeline infrastructure needs to be developed, which will require a substantial amount of time to site, design, and construct.

⁴ See DOE/NETL *Advanced Carbon Dioxide Capture R&D Program: Technology Update* at 4-5. U.S. Department of Energy/National Environmental Laboratory. May 2013. Available at <http://www.netl.doe.gov/File%20Library/Research/Coal/carbon%20capture/handbook/CO2-Capture-Tech-Update-2013.pdf>.

⁵ See 2012 *United States Carbon Utilization and Storage Atlas – Fourth Edition*. U.S. Department of Energy/National Environmental Laboratory. 2012. Available at: <http://www.netl.doe.gov/File%20Library/Research/Coal/carbon-storage/atlasiv/Atlas-IV-2012.pdf>.

CCS Implementation Negatively Impacts Unit Operating Efficiencies

The reduction in power generating capacity due to implementation of carbon capture as described by DOE warrants EPA's consideration. If CCS were required on a facility similar to the Navajo Generating Station (which consists of three 750 net-megawatt, super-critical pulverized coal boilers), one of its three units would be dedicated strictly to carbon capture while the other two units would be generating electricity for retail customers. Meanwhile, SRP would need to find an alternative power source to offset its share of the energy produced by the third unit to ensure SRP's customers continue to receive reliable power. As these units are baseload units, the replacement power would likely need to be baseload power as well, with its own associated carbon emissions. It is clear that the energy costs are too demanding in their current state and should not be considered "reasonable" until energy penalties are minimized.

Water Demand Associated with CCS is Detrimental for the Arid Southwest

It takes a significant amount of water to operate a generating facility, even without the addition of CCS. While the amount of water required by a facility varies by type, there is one commonality between all options – there is a significant increase in water demand required by CCS integration.

In a 2009 study, DOE/NETL quantified water consumption per net megawatt-hour of generation for a variety of different plant types. According to the report, installing carbon dioxide recovery (CDR) equipment not only decreases the efficiency of the plant, but also significantly increases the amount of cooling and process water required during the capture and compression processes.⁶

Table 1 of the 2009 study is reproduced on the following page, and shows that the amount of water required to implement CDR equipment is nearly twice what is typically required for a subcritical or supercritical pulverized coal (PC) unit to produce the same amount of power.⁷

⁶ See *Water Requirements for Existing and Emerging Thermolectric Plant Technologies* at 13. U.S. Department of Energy/National Environmental Laboratory. April 2009 Revision. Available at <http://www.circleofblue.org/waternews/wp-content/uploads/2010/08/Water-Requirements-for-Existing-and-Emerging-Thermolectric-Technology.pdf>.

⁷ See *Id.* at 14.

Table 1: Impact of efficiency and water use by CDR equipment on water consumption associated with carbon capture for plants using wet recirculating cooling towers⁸

Plant Type	Impact of Efficiency	Impact of Water Use by CDR Processes	Total Increase in Water Consumption for Carbon Capture
	<i>Increase in Water Consumption Due to CO₂ Capture, gal/MWh net (%)</i>		
Subcritical PC	247 (48%)	221 (43%)	468 (90%)
Supercritical PC	198 (44%)	196 (43%)	393 (87%)
IGCC (slurry fed)	54 (18%)	89 (29%)	143 (46%)
IGCC (dry fed)	84 (28%)	96 (32%)	180 (61%)
NGCC	31 (16%)	114 (60%)	146 (76%)

To put this in perspective, the three units at SRP's Navajo Generating Station generated 18.7 million megawatt hours of energy in 2013. Based on the DOE/NETL results in Table 1, the implementation of CCS at this supercritical pulverized coal plant would result in the use of an additional 7.3 billion gallons of water each year. According to statistics from the Arizona Department of Water Resources, in Arizona, each person uses about 100 gallons of water per day.⁹ Therefore, the amount of additional water required by a plant like NGS would equate to the water requirements of about 200,000 Arizona residents each year.

This drastic increase in water consumption is immensely concerning, especially in drought-impacted states like Arizona. Water is a critical component to the overall health and welfare of Arizona's residents, environment, and economy. As such, these water demand issues cannot be overlooked by EPA in its assessment of CCS as the best system of emission reduction.

Geographic Issues are Legitimate Barriers to CCS

Arizona is a prime example of why EPA's generalization that every state will have equal access to geologic sequestration opportunities is incorrect. DOE/NETL has assessed Arizona for deep saline reservoir injection, citing between 108 and 1,145 million tons of CO₂ storage capacity, generally limited to northeastern Arizona.¹⁰ Even if the pipelines and infrastructure existed to

⁸ See *id.* at 14.

⁹ See *Residential Home Page*. Arizona Department of Water Resources. Available at: http://www.azwater.gov/AzDWR/StatewidePlanning/Conservation2/Residential/Residential_Home2.htm.

¹⁰ See *NATCARB; A National Look at Carbon Sequestration; 2012 United States and Canadian Carbon Storage Atlas*. U.S. Department of Energy/National Energy Laboratory. 2012. Available at <http://www.natcarbviewer.com/>.

transport CO₂, DOE/NETL estimates this storage capacity would last only 2-19 years based on yearly CO₂ emissions from existing sources as of 2012.¹¹

When examining the possibility of using EOR as a method for carbon storage, as well as a possible way to reduce cost burdens for CCS implementation, this is simply not feasible for sources located in Arizona. DOE/NETL estimated that Arizona has only 17 million tons of CO₂ storage capacity when looking at oil/gas reservoirs, which would not cover a single year of storage based on 2012 emissions.¹²

Clearly, Arizona has limited CO₂ storage opportunities and these opportunities are further constrained once potential sites are further investigated. Specifically, in the late 2000's, SRP participated with several other entities in a CO₂ storage pilot to investigate a saline formation in the Colorado Plateau region of northeastern Arizona.¹³ Five candidate project sites were evaluated prior to the selection of the final site near Holbrook, Arizona. Meetings to inform the community of the project began in 2007 and necessary state and federal permits for well drilling and CO₂ injections were obtained in 2008-2009. After completing the 3,800 foot well in 2009, tests were completed to ascertain the permeability of the target formation. Unfortunately, after investing more than \$5.7 million and multiple years on this pilot project, it was found that there was insufficient permeability to proceed with CO₂ injection, so the project was discontinued.

This project illustrates why more research is still needed to assess the opportunity for geologic sequestration of CO₂ in Arizona and throughout the United States. Although a site may initially appear to be ideal for CO₂ sequestration, it may be determined to be unworkable after further detailed investigation. The International Energy Agency (IEA) noted the significant time and cost considerations related to storage site development in its 2013 analysis:

¹¹ See *Id.*

¹² See *Id.*

¹³ Participants Included Arizona Electric Power Cooperative, Arizona Public Service Company, Peabody Energy, Salt River Project, Tucson Electric Power Company, Lawrence Berkeley National Laboratory, Electric Power Research Institute, Sandia Technologies, and Errol L. Montgomery & Associates. The U.S. Department of Energy also was a significant contributor to the project providing 80.5 percent of the overall funding. See *Factsheet for Partnership Field Validation Test*. West Coast Regional Carbon Sequestration Partnership (WESTCARB). Revised October 28, 2009. Available at: http://www.westcarb.org/pdfs/FACTSHEET_AZPilot.pdf.

"While the cost of storage is considered to be much lower than the capture cost, lessons from existing projects show that many years and often several hundred million dollars of at-risk funds must be made available for the development of a storage site."¹⁴

Carbon transportation, often thought to be the most mature step in CCS, also presents a variety of issues, mostly non-technical. The large volumes of CO₂ that would be transported across the United States and internationally if CCS was required is much larger than the existing pipeline system can support, resulting in a significant investment in enhanced pipeline infrastructure. EPA needs to recognize these issues in its assessment of CCS as a viable technology that can be implemented nationwide. Simply put, it will be many years before carbon storage is viable throughout the United States, including Arizona.

Highly-Efficient Units Represent True BSER for Boilers and IGCC Units

Within the preamble to the proposed rule, EPA acknowledges that use of highly efficient new generation without CCS technology is technically feasible, but that they do not consider it to be BSER due to the lack of significant CO₂ reductions and lack of incentive for technological innovation.¹⁵ Both of these arguments are flawed as discussed below.

Based on EPA's own assertions, even with the requirement to incorporate CCS technology, the rule will result in negligible CO₂ reductions. Specifically, EPA states:

"As explained in the Regulatory Impact Analysis (RIA) for this proposed rule, available data indicate that, even in the absence of this rule, existing and anticipated economic conditions will lead electricity generators to choose new generation technologies that would meet the proposed standard without installation of additional controls. Therefore, based on the analysis presented in Chapter 5 of the RIA, the EPA projects that this proposed rule will result in negligible CO₂ emission changes, quantified benefits, and costs by 2022."¹⁶

Given EPA's own conclusion, the lack of significant CO₂ reductions should not have played a role in eliminating highly efficient new generation without CCS as the appropriate BSER determination for this rule.

¹⁴ See *Technology Roadmap Carbon Capture and Storage* at 17. International Energy Agency. 2013 edition. Available at: <http://www.iea.org/publications/freepublications/publication/TechnologyRoadmapCarbonCaptureandStorage.pdf>.

¹⁵ See 79 Fed. Reg. at 1,468.

¹⁶ See *Id.* at 1,495.

Considering the myriad of implementation issues associated with CCS technology, EPA's dismissal of highly efficient new generation is inappropriate. An emission limit based on the use of highly efficient new generation without CCS technology represents the true BSER. It meets all requirements for BSER under the Clean Air Act in that it has been adequately demonstrated, is not excessively costly, and does not have significant non-air quality health, environmental, and energy impacts. As such, EPA should withdraw and re-propose this rule to establish separate emission limits for coal-fired boilers and IGCC units.

EPA Should Provide an Explicit Exemption for Simple Cycle Turbines

In its 2012 proposal, EPA provided an explicit exemption for simple cycle turbines recognizing their importance in renewable energy integration. Unfortunately, in this revised proposal, EPA has eliminated the explicit exemption in place of an applicability threshold that the Agency believes will have the similar effect of excluding nearly all simple cycle turbines from the standards. Specifically, in the proposed rule, only simple cycle turbines with more than 33.3% potential electric output and 219,000 megawatt hours of net electric output are subject to the established standards.

When establishing this threshold, EPA concluded that "only 0.2 percent of existing simple cycle turbines had a three-year average capacity factor of greater than one-third between 2000 and 2012."¹⁷ A regulatory threshold should not be established for only 2 out of every 1,000 simple cycle turbines. EPA is misallocating important resources to focus time and energy on this tiny subgroup of units. Simple cycle turbines are a necessary aspect of renewable energy integration and regulations for these units should remain as simple and straightforward as possible.

If EPA is determined to move forward with regulating simple cycle combustion turbines, EPA should offer these units maximum operational flexibility. EPA must recognize simple cycle turbines have benefits that can facilitate their use in place of a combined cycle system, regardless of the cost of electricity. Faster start-up times make these units ideal for load balancing, particularly with renewable energy integration.

According to the EPA, "the 40 percent applicability limit would be more consistent with the annual run hour limitations currently contained in many simple cycle operating permits."¹⁸ Furthermore, EPA acknowledged in the rule preamble that it does not make financial sense to run a simple cycle unit above a 40% capacity factor.

¹⁷ See *Id.* at 1,459.

¹⁸ See *Id.* at 1,459.

"According to the AEO 2013 values, advanced combine cycle facilities have a lower cost of electricity than advanced simple cycle turbine facilities above approximately a 20 percent capacity factor. . . However, advanced combined cycle facilities do not have a lower cost of electricity than less capital intensive conventional combined cycle facilities until above approximately a 40 percent capacity factor."¹⁹

The best solution to address simple cycle turbines is to re-establish the explicit exemption provision from the 2012 rule proposal. If EPA is unwilling to provide an explicit exemption, the applicability threshold should be increased to 40% potential electric output, with a corresponding increase in the net electric output threshold.

EPA Must Implement Achievable Emission Standards for Stationary Combustion Turbines

EPA has proposed that BSER for stationary combustion turbines is based on the use of modern, efficient natural gas combined cycle units. While SRP agrees with EPA's assessment that CCS is not BSER for stationary combustion turbines, the emission standards tied to EPA's BSER determination must be achievable. EPA clearly acknowledged in the preamble of the proposed rule that nearly 10% of units today could not achieve the standards they have proposed.

"Therefore, because over 90 percent of small and large existing NGCC facilities are currently operating below the emissions rates of 1,100 lb CO₂/MWh and 1,000 lb CO₂/MWh, respectively, these rates are considered BSER for new NGCC facilities in those respective subcategories. These values represent the emission rates that a modern high efficiency NGCC facility located in the U.S. would be able to maintain over its life."²⁰

As noted by UARG in comments filed separately, EPA has traditionally set NSPS such that at least 99 percent of new units would be expected to be able to comply. EPA must take the same approach here to ensure that units can achieve continuous compliance with the emission standard that is established.

Of particular concern is the fact that new NGCC plants may not be able to meet the current proposed standards under certain operating conditions. There are instances where NGCC plants are needed to support large amounts of intermittent renewable energy generation, which requires the units to cycle on and off with much more frequency than a baseload plant. An NGCC unit that has frequent startup and shutdown periods will have higher greenhouse gas emissions than a unit that operates at a steady baseload over the same time frame. This issue

¹⁹ See *Id.* at 1,459.

²⁰ See *Id.* at 1,487.

can be addressed by modifying the proposed standard to account for the actual operational characteristics of the entire gas generation fleet, not just 90% of units.

EPA Should Limit GHG Emission Standards to Carbon Dioxide

Within the preamble of the rule, EPA requests comment on their approach of only proposing emission limits for CO₂, and not proposing separate limits for nitrous oxide and methane. EPA acknowledges that nitrous oxide and methane represent about 0.8% of total CO₂ equivalent emissions based on 2011 data.²¹ Given that these other GHG's represent less than 1% of total estimated GHG emissions from fossil-fuel fired EGUs, including these pollutants in this proposed rule will only result in increased burden with no substantive environmental benefit. SRP supports EPA's decision to not include proposed standards for these pollutants within the proposed rule. This exclusion should remain in place for all aspects of the rule, including any of the rule's associated testing, recordkeeping, or reporting requirements.

EPA Should Provide an Affirmative Defense for Malfunctions

SRP supports EPA's proposal to provide an affirmative defense for malfunctions, which provides necessary protection for issues outside of the plant's control. This determination is not easily achieved due to the rigorous standards that EPA has outlined for asserting affirmative defense. With these standards in place, EPA can be assured that only true malfunctions would qualify for affirmative defense. SRP understands and acknowledges under EPA's affirmative defense provisions that even if an affirmative defense is granted, this only waives the agency's ability to seek monetary penalties. The agency may still pursue injunctive relief to mitigate environmental impacts.

EPA Should Exclude Grid Emergencies from Net Sales Determinations

EPA indicated that it was seeking comment on excluding electricity generated as a result of a grid emergency declared by the Regional Transmission Organizations, Independent System Operators, or control area administrators from counting as net sales when determining applicability as an EGU.²² This exclusion would "allow facilities designed with the intent to sell less than one-third of their potential electric output to continue to generate electricity during a grid emergency without such generation counting towards the one-third sales applicability criterion."²³

²¹ See *Id.* at 1,442.

²² See *Id.* at 1,497.

²³ See *Id.* at 1,497.

SRP agrees that it is prudent to exclude grid emergencies, regardless of the generation applicability that EPA ultimately sets (e.g., 40% vs. 33%). This flexibility in operation during a grid emergency is critical to ensuring reliable power is available at all times.

Violations Should Be Assessed on a Case-By-Case Basis

EPA is proposing that if "the source's emission rate exceeds the standard, the number of daily violations in the 12- or 84-operating-month averaging period would be the number of operating days in that period."²⁴ SRP believes violations should be assessed on a case-by-case basis, especially given the compliance challenges outlined in this letter.

Instead of counting all days within the operating period as violations, EPA could, on a case-by-case basis, determine the specific days that contributed to the actual exceedance and only count those days. For example, during the unit's shakedown period, it may take time to optimize CO₂ capture. If subsequent capture rates cannot make up for higher rates initially, EPA should not penalize the source for the entire period. EPA should only penalize for that portion of time that caused the actual exceedance. This type of approach will effectively prevent EPA from over-inflating any monetary penalties associated with the issue.

EPA Should Exempt GHGs from the Presumptive Fee Calculation

SRP agrees with EPA's proposal to exempt GHGs from the presumptive fee calculation to avoid excessive fees far above the reasonable costs of the program. SRP also supports UARG's suggestion to leave the issue of any cost adjustment to a future rulemaking under Part 70 when additional information on actual costs is available to permitting authorities.

Conclusion

In conclusion, SRP strongly believes that this rule is flawed and must be withdrawn and reconsidered by EPA. SRP's primary concern is that the rule does not produce any environmental benefits, yet it will have very real and very substantial costs to electricity providers and their customers. It is premature for the EPA to promulgate this proposed NSPS as it is currently structured. SRP encourages EPA to withdraw this proposed NSPS until the many outstanding issues outlined in these comments, as well as in the comments of other organizations, such as UARG and APPA, can be properly addressed.

²⁴ See *Id.* at 1,498.

SRP Comments on Proposed Greenhouse Gas Performance Standards

Docket ID No. EPA-HQ-OAR-2013-0495

May 9, 2014

Page 14

We appreciate the opportunity to provide comments regarding this proposed rule. If you have any questions or need additional information, please do not hesitate to contact me by email at Kara.Montalvo@srpnet.com or by telephone at (602) 236-5256.

Sincerely,

A handwritten signature in black ink that reads "Kara M. Montalvo". The signature is written in a cursive style with a large initial "K" and "M".

Kara M. Montalvo, QEP

Director, Environmental Compliance & Permitting

cc: Dr. Nick Hutson, EPA Energy Strategies Group
Christian Fellner, EPA Energy Strategies Group