



Office of the General Counsel

3211 FOURTH STREET NE • WASHINGTON DC 20017-1194 • 202-541-3300 • FAX 202-541-3337

Submitted Electronically

April 25, 2018

Mr. Scott Pruitt
Administrator
U.S. Environmental Protection Agency
Washington, DC 20460

Subj: Docket ID No. EPA-HQ-OAR-2017-0355

Dear Mr. Pruitt:

On behalf of the U.S. Conference of Catholic Bishops (USCCB), we submit the following comments on the proposed rule to repeal the Clean Power Plan (CPP). 82 Fed. Reg. 48035 (Oct. 16, 2017); *see* 83 Fed. Reg. 4620 (Feb. 1, 2018) (extending the comment period to April 26, 2018).

The USCCB strongly supports care for God’s creation and for our common home to ensure the well-being of current and future generations. The USCCB has long supported the EPA in its efforts to maintain clean air, land and water, and has stressed the need for a national carbon standard to help reduce carbon emissions. While the CPP is not the only possible mechanism for addressing carbon emission reductions, it is troubling that the Administration is attempting to repeal the current plan without proposing a reasonable alternative.

Left in place, the CPP would reduce greenhouse gas emissions from fossil fuel-fired power plants, which are the largest stationary source of carbon emissions in the United States and a significant threat to public and environmental health. Air pollution from these plants contributes to health problems, especially in the young and the elderly, including increased risk of premature death and heart attacks, increased incidence and severity of asthma, and other adverse health effects. Furthermore, power plants are often located near low-income neighborhoods and communities of color. There is, therefore, an urgent need for action to reduce harmful emissions from energy sources to achieve a healthier, more just society.

This is one reason why the U.S. Bishops have called for an “energy revolution” in our country, which will require collective action across political, economic, and technological realms and special attention to the poor and vulnerable. Many are rightly concerned about how the necessary shift to less-polluting sources of energy will impact communities whose economies are dependent on fossil fuels such as coal. As the U.S. bishops wrote in their statement on the World

Day of Prayer for the Care of Creation: “The dignity of work for the human person requires all of us to remember those who labor in the energy industry, from coal miners and solar engineers to legislators and scientists. As energy industries and technologies shift, provisions must be made to retrain workers and to uphold leaders who can be stewards of both the common home and the common good.”¹

The EPA states that it lacks the authority to implement the CPP because this authority, the agency claims, is tied to the use of only “technological or operational measures that can be applied to or at a single source” of pollution and not to energy “generation shifting” with “vast ‘economic and political significance.’” 82 Fed. Reg. at 48037, 48042. We respectfully disagree. The Supreme Court has held that the Clean Air Act authorizes the EPA to regulate greenhouse gases when the agency forms a judgment that such emissions contribute to climate change. *Massachusetts v. EPA*, 549 U.S. 497 (2007). Indeed, the agency can avoid taking regulatory action with respect to greenhouse gas emissions only if it determines that such gases do not contribute to climate change or the agency provides some reasonable explanation as to why it cannot or will not exercise its discretion to make such a determination. *Id.* The EPA has determined that six greenhouse gases—carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride—“endanger both the public health and the public welfare of current and future generations.” 74 Fed. Reg. 66496 (Dec. 15, 2009). The agency therefore has both the statutory authority and responsibility to take regulatory action.

To achieve significant reduction of carbon dioxide, given its nature and unique relationship to energy production, regulation cannot be restricted to single sources. It is hard to foresee a scenario, under current economic and technological conditions, in which the EPA faithfully carries out its mandate to protect the public health from greenhouse gases without significantly affecting political and economic realities. The EPA’s stated argument for repealing the CPP does not serve as a justification for carbon dioxide deregulation but simply underscores the challenge in fulfilling its mandate.

The regulation of greenhouse gases will require the consideration of economic, social and political dimensions in the EPA’s own regulations as well as collaboration with other agencies and states on matters that lie outside the EPA’s purview. The EPA states, for example, that regulation of the “energy sector is generally undertaken by the Federal Energy Regulatory Commission (FERC) and states.” 82 Fed. Reg. at 48042. The USCCB would encourage the EPA to collaborate with the competent agencies to propose a plan consistent with the EPA’s stated responsibilities. In the past, the EPA has integrated social and economic concerns into its environmental procedures and regulations, and these have been informed by the work of the Office of Environmental Justice and Federal Interagency Working Group on Environmental Justice. The principles that guide those initiatives should also guide this rulemaking process. We urge the EPA to play its specific role in this important undertaking by regulating greenhouse gases, as is its statutory responsibility.

¹“Statement on the Upcoming World Day of Prayer for the Care of Creation,” ¶5 (Aug. 31, 2017), <http://www.usccb.org/issues-and-action/human-life-and-dignity/environment/statement-on-world-day-of-prayer-for-care-of-creation.cfm>

In his encyclical *Laudato Si'*, Pope Francis speaks of the danger of a “green rhetoric” that exists side by side with an attitude that neglects the poor and excluded from ecological concerns. “[W]e have to realize,” Pope Francis writes, “that a true ecological approach *always* becomes a social approach; it must integrate questions of justice in debates on the environment, so as to hear *both the cry of the earth and the cry of the poor.*” *Laudato Si'*, no. 49. The CPP represents just such a “social approach” that puts concern for the environment and for the poor into action. Correspondingly, the social implications of inaction on carbon regulation are clear: the weakest and the poorest will suffer most.

For these reasons, the USCCB has supported the CPP in the past, understanding that the good of public health and the threat of greenhouse gas pollution outweigh the interests in maintaining the *status quo*. It is also for these reasons that the U.S. Bishops will continue to defend the CPP in the absence of a viable alternative to the regulation of greenhouse gases.

For the reasons stated here, we ask that the agency reconsider its proposal to repeal the CPP.

Respectfully submitted,

A handwritten signature in blue ink that reads "Anthony R. Picarello, Jr." The signature is fluid and cursive, with a prominent initial 'A'.

Anthony R. Picarello, Jr.
Associate General Secretary and General Counsel
U.S. Conference of Catholic Bishops