



Statement of Joy Bergey, Partnership for Policy Integrity
EPA Listening Session on the Draft Federal Implementation Plan for the Clean Power Plan
Pittsburgh, Pa.
November 12, 2015

Thank you for the opportunity to comment. My name is Joy Bergey. I represent the Partnership for Policy Integrity, a nonprofit that advocates for clean energy and provides science and legal advocacy to reduce reliance on polluting energy technologies that masquerade as “clean.”

I am here to express strong opposition to biomass and waste burning being treated as compliance measures in the Clean Power Plan, either under a rate-based or mass-based plan. We’re not alone in this sentiment – a number of groups have called on EPA to exclude bioenergy altogether from the Clean Power Plan, including Sierra Club, Clean Air Task Force, the Center for Biological Diversity, Greenpeace, Earthjustice, Friends of the Earth, and 350.org. We’re including a letter from those groups at the end of our testimony.

EPA should provide leadership in the FIP on this issue, because the treatment of bioenergy in the Clean Power Plan is so murky, states will likely rely greatly on the FIP for guidance.

It’s indisputable that biomass power plants emit more CO₂ per megawatt-hour than coal or gas plants. Co-firing biomass with coal increases CO₂ emissions and decreases facility efficiency, making even the coal burn less efficiently. This is contrary to EPA’s Building Block 1 for the CPP, which is to *increase* coal plant efficiency.


Thus, if EPA allows bioenergy as compliance under the FIP, the agency will be in the peculiar position of claiming that biomass reduces emissions when it actually increases them. With regard to co-firing at an EGU that’s covered by the rule, we’re not even sure how this can be legal. The 111(d) rule is supposed to reduce emissions from the existing power sector, but co-firing biomass will, demonstrably, increase the heat rate, decrease facility efficiency, and thus increase the tons of CO₂ that are emitted per megawatt-hour of electricity generated. Does EPA really want to be in the position of defending this as a compliance measure?

EPA is requiring that to be qualified, biomass must be “*demonstrated as a method to control increases of CO₂ levels in the atmosphere,*” but the agency hasn’t defined what that means. Do states get to decide on their own?

In fact, because of the structure of the rule, we don’t see much room for nuance in the treatment of bioenergy emissions. There’s no place to count biogenic CO₂ under either a rate-based or mass-based approach, except, as would be proper and legal, if it’s coming out the stack of an electric generating unit covered by the rule. Thus, although states may in theory have latitude in how they account for biogenic CO₂, “qualified” biomass will likely be uniformly treated as having zero emissions.

EPA only needs to look to the Southeast to see evidence for what happens when you treat bioenergy as having zero emissions. The emerging disaster of the pellet industry, which is sending so-called carbon neutral fuel to Europe and the UK, has been created and sustained by just the policy that EPA is proposing – treatment of stack emissions of biomass as zero, and confining fuels to “sustainably harvested” wood and waste wood. Those are exactly the claims that the pellet industry makes – for instance, Enviva, which pelletizes several million tons of trees a year, claims that the lands from which it harvests are certified by major organizations like the Forest Stewardship Council. Meanwhile, thousands of acres of bottomland hardwood forests are being clearcut so they can be sent up the stack of power plants in the United Kingdom and Europe. Here in the U.S., the wood pellet industry has been aggressively promoting biomass as the easy compliance solution under the Clean Power Plan for utilities with “aging coal plant assets.”

Enviva’s harvesting for wood pellet feedstock in North Carolina: *“Little remains but stumps and puddles in what was once a bottomland hardwood forest”*



Species Information	
Mill	Species Breakdown (hardwood vs. softwood)
Ahoskie	HW-78%, SW-22%
Amory	HW-48%, SW-52%
Monroe (Third-party supplier)	HW-82%, SW-18%
Northampton	HW-89%, SW-11%
Southampton	HW-100%
Wiggins	HW-43%; SW-57%

[Joby Warrick, Washington Post 6/2/2015](#)
[“How Europe’s climate policies led to more U.S. trees being cut down”](#)

Further, if EPA approves a list of “pre-qualified” fuels, this is an invitation to fraud. Once waste is sanctioned as “carbon neutral” fuel, every fuel will be classified as waste. It’s unrealistic to think states will enforce standards and actually restrict the bioenergy industry to burning certain fuels, particularly when the industry has policymakers convinced that as long as net forest growth is positive, carbon emissions from bioenergy don’t warm the atmosphere. EPA has seen evidence of that recently in Congress, with legislation that would force EPA to treat all bioenergy as having zero emissions.

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- U.S. and Canadian forest landowners provide perspectives and their projections for sustainable supplying a North American market
- Hear case studies from Utilities and Independent Power Producers (IPPs) who have successfully converted or are considering converting to wood pellets for power generation or co-firing

With regard to burning so-called waste fuels, what is the point of incentivizing something that is going to happen anyway? Where facilities are burning waste fuels for energy, they are usually doing it for waste reduction, which benefits them, and to generate onsite power, which also benefits them. Why do they need incentives if they're going to burn the material anyway? Providing such incentives to bioenergy simply serves to displace true zero-emissions compliance measures.

EPA states that biomass-related CO₂ "benefits" should be "*quantifiable, verifiable, non-duplicative, permanent and enforceable.*" We urge EPA to be take a clear-eyed look at this industry, which has an abysmal record of compliance and transparency, and save the agency a lot of trouble in the future (to say nothing of protecting forests and air quality) by not building a bioenergy poison pill into the Federal Implementation Plan.

**Center for Biological Diversity | Chesapeake Climate Action Network
Clean Air Task Force | Dogwood Alliance | Earthjustice
Environmental Working Group | Friends of the Earth
Global Alliance for Incinerator Alternatives | Greenpeace
Partnership for Policy Integrity | Rainforest Action Network | Sierra Club
Southern Environmental Law Center | 350.org**

The Honorable Shaun Donovan, Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

June 23, 2015

Dear Mr. Donovan —

The public interest environmental organizations listed above write to register our strong objections to the use of biomass combustion for power generation as a compliance measure in the Clean Power Plan (CPP). In the preamble to the proposed CPP, the Environmental Protection Agency anticipates that states will likely consider biomass as a compliance option, and asserts the importance of defining a clear path for states to do so.¹ This letter outlines several of the concerns our organizations have about the environmental impacts and the legal viability of the approach suggested by EPA in its proposed rule.

First, biomass-based power generation should not be included in the final CPP as a compliance measure because, at least in its proposal, EPA has not identified a rational basis for considering biomass combustion as part of the “best system of emission reduction” (BSER). Power plants burning wood and other forms of biomass emit about 3,000 pounds of CO₂ per megawatt-hour, an emissions rate that is approximately fifty percent higher than that of a coal-fired power plant. Co-firing biomass in a coal plant can increase emissions relative to burning coal alone, and, as EPA has acknowledged, can decrease facility efficiency² (thus working in opposition to Building Block 1 of the CPP, which calls for increasing coal plant efficiency).

The Clean Air Act requires EPA to promulgate a standard of performance for limiting the air pollutants emitted from each listed category of stationary sources. This performance standard must “reflect[] the degree of emission limitation achievable through the application of the best system of emission reduction ... the Administrator determines has been adequately

¹ Carbon pollution emission guidelines for existing stationary sources: electric generating units; proposed rule, 79 Fed. Reg. 34,830, 34,924 (June 18, 2014).

² U.S. Environmental Protection Agency. Documentation for EPA Base Case v.5.13: Using the Integrated Planning Model. Page 5-9. <http://www.epa.gov/airmarkets/documents/ipm/Documentation.pdf>

demonstrated.”³ Section 111(d) of the Act is source-focused, requiring states to submit plans for implementing standards of performance at particular existing sources.⁴ As biomass combustion does not produce contemporaneous reductions in CO₂ emissions, with any reductions in net lifecycle emissions depending on carbon offsetting that occurs offsite and in the future, it cannot be considered part of the BSER envisioned in the Clean Power Plan and required under Section 111 of Act.

EPA and other agencies have often treated CO₂ from bioenergy differently from CO₂ from fossil fuel combustion, even though CO₂ from both sources has the same effect on the climate. This different treatment is based on the theory that burning biomass to generate energy either results in emissions that will be recaptured as trees grow back, or avoids emissions that otherwise would have occurred if the biomass were to decompose. However, even if emissions are reduced by regrowth later in time, or if emissions that would have occurred later in time are avoided, the offsetting reductions are significantly delayed – on the order of years, decades, or more than a century, depending on the material used as fuel. The emission reductions typically attributed to power plants that burn biomass are therefore uncertain, speculative, and dislocated, and cannot be relied upon for the purpose of CPP compliance.

Second, if EPA decides to shift the development of biomass carbon accounting to individual states, with no guidance or standards for evaluating biomass-dependent compliance proposals, this would invite arbitrary results and would have no rational basis. EPA’s proposed CPP would not require biomass-burning facilities to ensure that emission reductions are contemporaneous, or even that such reductions will occur within a specified time period. Nor did the proposal describe how states are to assess the connection between facilities that burn biomass and nominally related CO₂ reductions that occur elsewhere (due to either subsequent plant growth or avoided decomposition).

EPA points states and other stakeholders to the Agency’s ongoing effort to develop a scientific carbon accounting framework to track the lifecycle CO₂ emissions associated with biomass-based energy production. According to EPA, states that want to incorporate biomass combustion into their CPP implementation plans should refer to the draft *Framework for Assessing Biogenic CO₂ Emissions from Stationary Sources*. The draft Framework, however, is currently under review by an EPA Science Advisory Board (SAB) panel that roundly criticized the Agency’s previous draft;⁵ it states explicitly that EPA has not yet determined how

³ 42 U.S.C. § 7411(b)(1)(B), (a)(1).

⁴ *Id.* § 7411(d)(1)(A).

⁵ SAB review of EPA’s Accounting Framework for Biogenic CO₂ Emissions From Stationary Sources. EPA-SAB-12-011 (Washington, D.C., Sept. 28, 2012), *available at* [http://yosemite.epa.gov/sab/SABPRODUCT.NSF/57B7A4F1987D7F7385257A87007977F6/\\$File/EPA-SAB-12-011-unsigned.pdf](http://yosemite.epa.gov/sab/SABPRODUCT.NSF/57B7A4F1987D7F7385257A87007977F6/$File/EPA-SAB-12-011-unsigned.pdf). EPA recently extended the SAB’s current review of the Framework through at least early September. *See* Notification of Three Teleconferences of the Science Advisory Board Biogenic Carbon Emissions Panel, 80 Fed. Reg. 32,113 (June 5, 2015).

to apply the Framework to any particular policy context, such as the CPP;⁶ and it does not deliberate on the legal limitations and obligations that are particular to Section 111 of the Act or how the details of that provision apply to biomass combustion. Given the lack of guidance provided by EPA, there is a significant risk that some states will develop implementation plans that incorporate a diversity of biomass combustion measures that are arbitrary or otherwise legally baseless.⁷

Third, the concept of “sustainability” that EPA has said it will use to distinguish CPP-compliant biomass is not a proxy for carbon accounting. In a memorandum issued in late 2014, EPA signaled that it might bypass the scientific effort being conducted by the SAB by making two determinations: first, that the “use of waste-derived feedstocks and certain forest-derived industrial byproducts are likely to have minimal or no net atmospheric contributions of biogenic CO₂ emissions, or even reduce such impacts, when compared with an alternate fate of disposal;” and second, “that states’ reliance specifically on sustainably-derived agricultural- and forest-derived feedstocks may also be an approvable element of their [CPP] compliance plans.”⁸ Sustainability standards in the forestry context, however, generally do not consider carbon dynamics at all, and thus cannot serve as an accurate proxy for carbon accounting.

The organizations represented on this letter have a range of perspectives about bioenergy. However, we all agree that the molecules of CO₂ emitted by biomass-burning facilities warm the atmosphere and acidify the oceans just as effectively as CO₂ from fossil fuels. Even if bioenergy emissions are eventually offset, the process of reaching net emissions parity with coal- and natural gas-fired power plants takes decades to more than a century, depending on the feedstocks used and the combustion efficiency of the facility. As such, biomass combustion is contrary to both the policy goals and legal requirements that underpin the Clean Power Plan, and cannot qualify as BSER.

For the reasons described above, we believe that the inclusion of biomass combustion as a compliance option would deeply compromise the final CPP, and we respectfully urge the Office of Management and Budget to recommend its exclusion.

⁶ United States Environmental Protection Agency, Office of Air and Radiation. Framework for Assessing Biogenic CO₂ Emissions from Stationary Sources (Nov. 2014).

⁷ The forestry industry, emboldened by the possibility that EPA will discount the CO₂ emitted by biomass-burning power plants, anticipates a “new North American wood pellet market” under the CPP. *See* http://www.informationforecastnet.com/events/pellets-coal-plant-conversions/?utm_source=Pellets-J1-0526-1&utm_medium=Banner&utm_campaign=2015Events. A new market would exacerbate the rapidly growing demand for US-harvested trees from power companies in Europe, where bioenergy is wrongly assumed to be “carbon neutral.” *See* Joby Warrick, How Europe’s climate policies led to more U.S. trees being cut down, Washington Post, June 2, 2015, *available at* <http://t.co/anLq0JuA6c>.

⁸ Memorandum from Janet McCabe, Acting Assistance Administrator, Office of Air and Radiation, EPA, to Air Division Directors, Regions 1 – 10, “Addressing Biogenic Carbon Dioxide Emissions from Stationary Sources,” Nov. 19, 2015.

Respectfully submitted,

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