# TCEQ LogoNational Comments

# Executive Review Summary

**TCEQ Proposed Comments On:** Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Proposed Rule; EPA Docket ID No. EPA-HQ-OAR-2017-0355

**Overview of Proposal:**

On October 16, 2017, the United States Environmental Protection Agency (EPA) proposed to repeal the Carbon Pollution Emission Guidelines for Existing Electric Utility Generating Units (EGU), also referred to as the Clean Power Plan (CPP), adopted under Federal Clean Air Act (FCAA), §111(d). The proposal would repeal the CPP rule in 40 Code of Federal Regulations (CFR) Part 60, Subpart UUUU, in its entirety as well as certain legal interpretations that the EPA relied upon in adopting the CPP rule. While currently stayed by the United States Supreme Court, the CPP rule established carbon dioxide (CO2) emission performance goals for existing EGUs and requires states to submit a state plan to the EPA to demonstrate how the state will achieve the interim and final emission performance goals.

**Summary of Comments:**

### *A. Comments on the Proposed Repeal and Legal Interpretations*

1. The Public Utility Commission of Texas (PUCT), Railroad Commission of Texas (RRC), and Texas Commission on Environmental Quality (TCEQ) support the repeal of the CPP rule and its associated legal interpretations.

2. The PUCT, RRC, and TCEQ urge the EPA to also reconsider the underlying justification for not making an endangerment finding specifically for CO2 to regulate that pollutant under §111 of the FCAA.

3. The TCEQ agrees with and supports the EPA’s return to its historical interpretation of Best System of Emission Reduction (BSER).

4. Emission guidelines for existing sources should not be more stringent than standards of performance for new or modified units if BSER is interpreted and applied appropriately.

5. The EPA did exceed its proper role and authority with the CPP rule, which has significant implications beyond just the utility electricity generation sector.

6. The EPA’s previous Legal Memoranda supporting the CPP rule should be withdrawn.

### *B. Comments on the Regulatory Impact Analysis (RIA)*

**1.** The TCEQ appreciates the opportunity to comment on the RIA for the proposed repeal of the CPP rule.

2. The TCEQ appreciates the EPA’s commitment to more fully characterizing uncertainty in the upcoming analysis. In doing so, the TCEQ encourages the EPA to consider important methodological aspects of the underlying epidemiology literature and models and to quantify and clearly communicate uncertainty in the final analysis.

3. The EPA should provide a new model performance evaluation that considers important sources of variability including regional heterogeneity of particulate matter with diameters equal to or less than 2.5 micrometers (PM2.5) concentrations.

4. The TCEQ supports the removal of co-benefits calculations in RIAs, as those benefits are achieved in other rules.

**Lead Office: Vincent Meiller, Office of Air**

**Internal Coordination:** **Vincent Meiller, Office of Air**

**Office of Legal Services:** John Minter, Environmental Law Division

**Deputy Director Approval: Steve Hagle, P.E.**

**Deadline (Submittal Due Date):** April 26, 2018