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United States Environmental Protection Agency  
EPA Docket Center, EPA West (Air Docket)  
Air and Radiation Docket, Mail Code 2822T  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Attention: Docket ID No. EP A-HQ-OAR-2009-0234

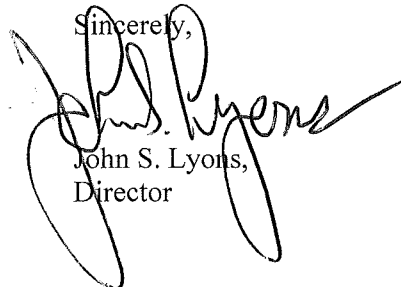
RE: Federal Register No. 76, No. 85/Tuesday, May 3, 2011/Proposed Rules. *National Emission Standards for Hazardous Air Pollutants From Coal and Oil-Fired Electric Utility Steam Generating Units*

On behalf of the Commonwealth of Kentucky, the Division for Air Quality (Division) respectfully submits the following comments in response to the May 3, 2011 Federal Register notice soliciting comments on the proposed rule referenced above. Established under Kentucky Revised Statute (KRS) 224, the Division serves as the regulatory agency responsible for maintaining a degree of purity of the air resources necessary for the protection of the public health, the general welfare, and the property and people in the Commonwealth. Related to this rulemaking, the Division functions as the delegated authority for the air toxics program established under Section 112 of the Clean Air Act.

As the delegated authority, the Division is responsible for the implementation and enforcement of the rule once adopted into Kentucky law. In reviewing the proposed rule, the Division is especially concerned with certain aspects relating to the regulatory applicability, compliance demonstration, and performance testing requirements. Those concerns are conveyed in the attachment with technical details illustrating the potential problems with the rule as written.

Thank you for this opportunity to comment on the proposed regulation. If you have any questions, or concerns regarding these comments, please contact me at 502-564-3999.

Sincerely,



John S. Lyons,  
Director

## ATTACHMENT

Docket ID No. EPA-HQ-OAR-2009-0234

### **National Emission Standards for Hazardous Air Pollutants from Coal and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units**

Comments from the Kentucky Division for Air Quality (Division)

#### **Applicability of 40 CFR 63, Subpart UUUUU**

##### **Cogeneration Facilities**

*A unit subject to one of the Boiler NESHAP that increases its electricity output and meets the definition of an EGU would be subject to the proposed EGU NESHAP for the 6-month period after the unit meets the EGU definition. Assuming the unit did not meet the definition of an EGU following that initial occurrence, at the end of the 6-month period it would revert back to being subject to the Boiler NESHAP. 76 FR 25069*

The Division is concerned with the proposed structure of regulatory applicability for cogeneration units. The Division does not concur with the concept of applying certain applicable requirements when facilities meet the definition of a cogeneration facility (i.e., producing and selling one-third of their generated power that is greater than 25 MWe) and other applicable requirements when the facility is operated as an industrial boiler. Using the proposed approach, the Division predicts that the process of permitting cogeneration facilities will become complicated, overly burdensome, and result in confusion during compliance determinations.

#### **Work Practice Standards in 40 CFR 63, Subpart UUUUU**

*The only work practice we identified that would potentially control [organic HAP emissions] is an annual performance test. 76 FR 25046*

*We are proposing a work practice standard for non-dioxin/furan organic HAP [...] that would require the implementation of an annual performance test program for new EGUs. This proposal [...] is based on [...] the measured emissions from EGUs of these HAPs are routinely below the detection limits of the EPA test methods, and as such, EPA considers it impracticable to reliably measure emissions from these units. 76 FR 25048*

In the preamble language above, EPA articulates that test results for organic HAPs are not reliable; however, the language on page 25046 states that the “only work practice we identified that would potentially control [organic HAP emissions] is an annual performance test.” The Division requests clarification on whether a source is supposed to conduct only a work practice standard of a tune-up or both a tune-up and an annual performance (stack) test.

Additionally, there appears to be a contradiction with the work practice standards listed in Table 3 of the proposed 40 CFR 63, Subpart UUUUU. The table requires an annual performance test

as specified in 40 CFR 63.10005; however, 40 CFR 63.10005 is the section dedicated to initial compliance and not continuous compliance as the word “annual” implies. 40 CFR 63.10006(r), which details continuous compliance, states that sources required to meet an applicable tune-up work practice standard must conduct a performance tune-up according to 40 CFR 63.10007 and each performance tune-up shall be conducted within 18 months of the previous performance tune-up [76 FR 25107]. The frequency of performance tune-ups established in Table 3 should reflect the regulatory language in 40 CFR 63.10006. Please note, the proposed 40 CFR 63.10007 speaks only of performance testing, not tune-ups. The Division respectfully requests clarification.

#### **Notification Requirements of 40 CFR 63, Subpart UUUUU**

##### ***40 CFR 63.10030 What notifications must I submit and when?***

*(d) If you are required to conduct a performance test you must submit a Notification of Intent to conduct a performance test at least 30 days before the performance test is scheduled to begin.*

The Division does not concur with the timeframe established for notifications of testing. This timeframe does not provide the Division’s personnel adequate time to review the test protocol and to be available for the actual testing. This notification timeframe also contradicts 40 CFR 63.7(b), which states “...owner or operator of an affected source must notify the Administrator in writing of his or her intention to conduct a performance test at least 60 calendar days before the performance test is initially scheduled to begin...”.

#### **Emissions Averaging for 40 CFR 63, Subpart UUUUU**

*Averaging across affected units is permitted only if it can be demonstrated that the total quantity of any particular HAP that may be emitted by that portion of a contiguous major source that is subject to the NESHAP will not be greater under the averaging mechanism than it could be if each individual affected unit complied separately with the applicable standard. Under this test, the practical outcome of averaging is equivalent to compliance with the MACT floor limits by each discrete unit, and the statutory requirement that the MACT standard reflect the maximum achievable emission reduction is, therefore, fully effectuated. 76 FR 25053*

The Division requests clarification on emissions averaging. To resolve this issue, the Division suggests including an equation in 40 CFR 63.10009 to provide a compliance demonstration method for each individual affected unit exhausting through a common stack.

#### **Typographical Errors in 40 CFR 63, Subpart UUUUU**

*ECPMS could be modified [...]. 76 FR 25036*

*ECPMS should be ECMPS.*

##### ***40 CFR 63.9990 What are the subcategories of EGUs?***

*(2) EGUs designed for coal < 8,300 Btu/lb. (b) Oil-fired EGUs are [...] 76 FR 25103*

40 CFR 63.9990(b) should begin on the next line for better understanding.

***40 CFR 63.10005 What are my initial compliance requirements and by what date must I conduct them?***

The numbering of the proposed 40 CFR 63.10005(k) is out of sequence. The last paragraph, (1) *Startup and Shut down default [...]*, should be numbered (4) instead of (1). **76 FR 25106**

***40 CFR 63.10011 How do I demonstrate initial compliance with emission limits and work practice standards?***

The numbering of the proposed 40 CFR 63.10011(b) is out of sequence. The numbering skips (5). **76 FR 25114**

**Circular Reference of 40 CFR 63, Subpart UUUUU**

Several places in the proposed 40 CFR 63, Subpart UUUUU refer back to a site-specific monitoring plan required by 40 CFR 63.10000(d). However, the proposed 40 CFR 63.10000(d) says there is an exemption in which some sources will not need a site-specific monitoring plan (i.e. facilities with existing monitoring plans that meet the requirements of 40 CFR 63.10010). Then, the proposed 40 CFR 63.10010 refers back to 40 CFR 63.10000(d). The Division suggests for each instance where the text refers back to the proposed 40 CFR 63.10000(d), there should be additional language to address the exemption. This is a circular reference that only causes confusion, makes the regulation difficult to follow, and should be eliminated.

**Startup Shutdown and Malfunction**

*Consistent with Sierra Club, EPA is proposing standards in this rule that apply at all times. In proposing the standards in this rule, EPA has taken into account startup and shutdown periods and, for the reason explained below, has not proposed different standards for those periods. The standards that we are proposing are 30 boiler day operating day averages. EGUs, especially solid fuel-fired EGUs, do not normally startup and shutdown frequently and typically use cleaner fuels (e.g. natural gas or oil) during the startup period. Based on the data before the Agency, we are not establishing different emissions standards for startup and shutdown. 76 FR 25028*

For consistency, EPA should consider and require the startup and shutdown plans finalized in the recent Boiler MACT (40 CFR 63, Subpart DDDDD), since startup and shutdown events are predictable and routine aspects of a source operations.

**Other General Comments**

The Division requests clarification on the method of converting input-based emission limitations to output energy-based emission limitations. The Division considers a constant conversion factor will reduce the effectiveness of the emission limit, rather than producing noticeable improvements in electric generation efficiency. The Division recommends developing a formula to determine output energy-based emission limits based on unit specific conditions.

The Division requests clarification on the method for which mercury will be measured to comply with the emission limitations. A distinction needs to be made in regards to the uses of Reference Method 29, measuring total mercury, and Reference Method 30B, measuring only vapor phase mercury.