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GOVERNOR

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

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October 7, 2019

The Honorable Andrew Wheeler, Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

**Re: Comments relating to *Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting* (84 Fed. Reg. 39,244); Docket ID: EPA-HQ-OAR-2018-0048**

Dear Administrator Wheeler,

On behalf of the Commonwealth of Kentucky, the Energy and Environment Cabinet, Division for Air Quality (Division) respectfully submits the following comments relating to the United States Environmental Protection Agency's (EPA) proposed rule *Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting*.<sup>1</sup>

The Division supports the proposal as it provides regulatory clarity that both emissions increases and decreases from a major modification are to be considered during Step 1 of the two-step New Source Review (NSR) applicability test (also known as project emissions accounting or previously as project netting). Regulatory certainty is imperative in that it will eliminate confusion during the permitting process, provide for the timely issuance of permits, and spark economic growth.<sup>2</sup>

The Division urges the EPA to continue rulemaking as it relates to New Source Review, with the corresponding opportunity for comment, instead of issuing additional guidance memos and documents. Pursuant to Kentucky law, KRS 13A.130, the Energy and Environment Cabinet is prohibited from regulating by guidance documents. As such, codification of EPA's New

<sup>1</sup> 84 Fed. Reg. 39,244 (August 8, 2019).

<sup>2</sup> See also, Testimony of Mr. Sean Alteri on "Legislation Addressing New Source Review Permitting Reform" before the United States House of Representatives, Energy and Commerce Subcommittee on Environment (May 16, 2018), attached hereto and incorporated herein as a part of the Cabinet's comments.

The Honorable Andrew Wheeler

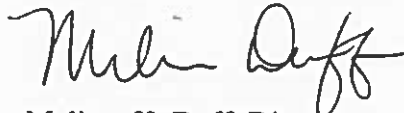
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Source Review guidance memos and documents will provide regulatory certainty to the Commonwealth, as well as the regulated community.

The Division appreciates EPA's consideration of the above comments. If you have questions or comments, please contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Melissa Duff". The signature is fluid and cursive, with the first name "Melissa" and the last name "Duff" clearly distinguishable.

Melissa K. Duff, Director  
Division for Air Quality