



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

October 16, 2014

EPA Docket Center
U.S. Environmental Protection Agency (EPA)
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Attn: Docket No. EPA-HQ-OAR-2013-0603

Subject: Comments on Proposed Rulemaking – Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units

Dear Sir/Madam:

The North Carolina Department of Environment and Natural Resources (NCDENR), is providing comments on the proposed rule “Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units” published in the *Federal Register* on June 18, 2014 (79 *FR* 34960).

As a general comment NCDENR would note that the technical support for this rule making is inadequate. In at least one instance where documentation is provided the proposal relies upon technical support for the §111(d) rule and is, hence, inapplicable.

Emissions Standards:

1. To be consistent with the premise of §111 (New Source Performance Standards), NCDENR believes the emissions standards for CO₂ from electric generating units (EGUs) for “modified” and “reconstructed” sources promulgated pursuant to §111(b) of CAA must be uniform for the entire nation. The Clean Air Act does not allow such standards to be unit-specific nor does it allow different standards in different states.
2. The appropriate and legally defensible approach for a standard for “modified” and “reconstructed” EGUs should be defined in the rule itself. Allowing States to define standards on a case-by-case subverts public participation and violates the Clean Air Act. NCDENR believes strongly in the public participation process.
3. With respect to “modified” simple cycle combustion turbines, NCDENR would suggest that EPA drop the standard entirely. The proposal defines the standard for modified simple cycle engines to be conversion to combined cycle operation. This unlawfully redefines the source and should be deleted.

Applicability of Both §111(b) and (d) Simultaneously

There is no authority under the Clean Air Act to require ongoing compliance with §111(d) for sources affected under §111(b). The implementation of §111 requires that an affected source is subject to either §111(b) or §111(d), but not both. NCDENR does not believe the proposal is legal defensible.

I trust that our comments will be considered as EPA prepares the final rule. If you have questions regarding these comments, please contact me at 919-707-8430 or at sheila.holman@ncdenr.gov.

Sincerely,



Sheila C. Holman, Director
Division of Air Quality