



DELAWARE AUDUBON SOCIETY

Chapter of National Audubon
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October 1, 2006

Robert L. Clausen, Environmental Engineer
Air Quality Management Section
DNREC Division of Air & Waste Management
156 S. State Street
Dover, DE 19901

RE: 1146 Electric Generating Unit (EGU) Multi-Pollutant Regulation

Dear Mr. Clausen:

Delaware Audubon was incorporated in Delaware as a non-profit organization in 1977. Delaware Audubon is a statewide chapter of the National Audubon Society and is dedicated to developing a better appreciation of our natural environment and working for species and habitat protection and conservation. Delaware Audubon consists of over 1,500 members throughout the state advocating on a wide range of environmental issues and sponsoring programs, field trips and school education. Our focus is on protection of the Delaware Bay and the Coastal Zone. We appreciate the opportunity to provide comments on an issue of great importance to our organization and its members.

The Delaware Audubon Society offers the following comments on the above referenced proposed regulation:

1. Delaware Audubon supports the implementation of a multi-pollutant emission control regulation for electric generating units as presented by Citizens for Clean Power (CCP) calling for a 90 percent reduction in SO_x; an 80 percent reduction in NO_x; and a 90 percent reduction in Mercury (Hg) emissions from the electric generating units covered in the proposed rulemaking.
2. Delaware Audubon also supports prohibiting the use of allowances to satisfy the emission reduction requirements set forth in the proposed rule. This will help ensure that actual emissions reductions and associated local and regional public health and environmental benefits will be achieved.

3. Similar regulations have been or are being adopted in several adjacent states and elsewhere around the country due in large part to the failure of the federal government to implement an emission reduction program that is protective of public health and the environment. Electric power companies, which largely supported the inadequate federal Clean Air Interstate Rule (CAIR) and Clean Air Mercury Rule (CAMR), as well as the disembowelment of the federal New Source Review (NSR) program, were warned that many states viewed CAIR and CAMR requirements as insufficiently protective of human health and the environment and would be forced to pursue more stringent requirements. It is hypocritical now for them to argue for consistency with the federal program.
4. Contrary to statements made by utility representatives, technology currently exists to achieve the emission reduction levels proposed by CCP.
5. NRG's Indian River Power Plant and Conectiv's Edge Moor facility are respectively the two largest sources of pollution in the state, with Indian River accounting for almost half of the state's toxic emissions. Recent studies conducted by the U.S. Environmental Protection Agency (USEPA) clearly show that as much as 70 percent of the mercury emitted from these plants is deposited locally, supporting the contention of many state environmental agencies that lack of adequate mercury emissions reduction would result in the creation of toxic "hot spots."
6. Several electric power companies in neighboring states have shut down units or "re-powered" their units with cleaner fuels and pollution control technology without the adverse impacts suggested by the utilities.
7. This rulemaking should not be structured in such a way as to allow older polluting units to continue operating at all costs. If it does not make economic sense to retrofit smaller units with add-on pollution controls to achieve health-based emission reductions, then these units should be shut down. A properly structured rule will probably result in NRG immediately shutting down the most polluting units, the two 82 MW units (Units #1 and #2) built in the 1950's and the 177 MW unit (Unit #3) built in 1970. Threats that this would cause black outs or rolling brown outs are disingenuous at best.

The truth is these units generate the largest profits for the company since they operate with minimal emission controls, have no debt load, and are preferred units for dispatching by the PJM Independent Service Operator (ISO). By the very nature of electric utility deregulation, the dirtiest plants are preferred because they provide electricity at the "lowest cost to the consumer." This is true when you consider only electricity cost and don't take into account the costs that result from devastating health and environmental impacts of power plant emissions. These units were never intended or expected by Congress to operate for 50 years without pollution controls.

8. According to a November 2005 report* prepared by the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) “(T)echnology to reduce [mercury] emissions from coal-burning power plants by more than 90 percent on many plants is now commercially available, cost-effective, and rapidly advancing.” The utilities should stop misleading the public by suggesting otherwise.
9. In the absence of government regulations, plant owners continue to delay long-needed replacement technologies to upgrade their existing facilities post-obsolence. The truth is industry desires to push capital costs out into the future to maximize earnings. They will not undertake emission reductions without a regulatory mandate.
10. Compliance deadlines should be set for as soon as practicable but no later than a 2010 – 2012 timeframe contained in the proposed rule.

Delaware Audubon appreciates the opportunity to provide comment on this proposed rulemaking. We also appreciate the extraordinary efforts by the Air Quality Management staff to provide easy access to a wealth of information on this subject and the views of the stakeholders in the regulatory work group through postings on the Department’s website. You have set a new standard for information sharing.

Most sincerely,

S\NICHOLAS A. DIPASQUALE

Nicholas A. DiPasquale
Conservation Chair

pc: Delaware Audubon Board of Directors

* “*Regulating Mercury from Power Plants: A Model Rule for States and Localities,*” STAPPA/ALAPCO, November 2005.