

The National Rural Electric
Cooperative Association

Comments on

Revisions to the Prevention of Significant Deterioration (PSD) and Title V
Greenhouse Gas (GHG) Permitting Regulations and Establishment of a Significant
Emissions Rate (SER) for GHG Emissions Under the PSD Program,
81 Fed. Reg. 68110 (October 3, 2016)

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I. Introduction

The National Rural Electric Cooperative Association (NRECA) appreciates the opportunity to comment on the Environmental Protection Agency's (EPA's) proposal for Revisions to the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a Significant Emissions Rate (SER) for GHG Emissions Under the PSD Program, 81 Fed. Reg. 68110 (October 3, 2016), with the comment period extended to December 16, 2016. 81 Fed. Reg. 81711 (November 18, 2016).

NRECA is the national service organization that represents the interests of the nation's more than 900 not-for-profit rural electric utilities responsible for keeping the lights on for more than 42 million consumers in 47 states, or 12 percent of the nation's electric consumers. All or portions of 2,500 of the nation's 3,141 counties are served by rural electric cooperatives. Collectively, cooperative service areas cover 75 percent of the U.S. landmass. Because of their critical role in providing affordable, reliable, and universally accessible electric service, electric cooperatives are vital to the economic health of the communities they serve.

Sixty-five rural electric generation and transmission cooperatives (G&Ts) generate and transmit power to 668 of the 840 distribution cooperatives. The G&Ts are owned by the distribution cooperatives they serve. The remaining distribution cooperatives receive power directly from other generation sources within the electric utility sector. A very significant portion of the power purchased directly by distribution cooperatives originates from coal-fired generation. The G&Ts provide 41 percent of all distribution cooperative electric generation needs, and 75 percent of this generation, or 28,475 megawatts (MW), is coal-fired. Fifty percent of this coal-fired generation was constructed under Clean Air Act (CAA) new source review regulatory mandates, and almost 80 percent is equipped with flue gas desulphurization (FGD) units or "scrubbers" to control sulfur dioxide (SO₂) emissions. Over 60 percent of this generating capacity is also retrofitted with state-of-the-art nitrogen oxides (NO_x) controls, Selective Catalytic Reduction (SCR) or Selective Non-Catalytic Reduction (SNCR), and practically all of cooperative coal-fired generation is equipped with advanced low NO_x burner technologies. In aggregate, cooperative

coal-fired generation is newer and equipped with more pollution controls when compared with the overall electric utility sector.

Electric cooperatives strive to provide affordable electric power while complying with ever-increasing environmental mandates. This is a challenging task. Data from the U.S. Energy Information Administration (EIA) show that rural electric cooperatives serve an average of 7.4 consumers per mile of line and collect annual revenues of approximately \$15,000 per mile of line. In contrast, investor-owned utilities (IOUs) serve an average of 34 customers per mile of line and collect annual revenues of approximately \$75,500 per mile of line. Significantly due to this revenue-per-mile disparity between cooperatives and investor-owned utilities, 67 percent of rural electric cooperative members have residential electric rates that are higher than their nearest investor-owned utility. These higher rates are an impediment to the economic recovery and viability of rural communities, many of which continue to struggle after years of economic downturn.

Differences in energy usage and lifestyle make rural Americans more vulnerable to increased electricity costs when compared with non-rural households. Household electric usage tends to be higher in rural areas due to the prevalence of detached single-unit homes that are more exposed to the weather and generally larger than those in urban areas. Rural areas also have a disproportionate share of energy inefficient and difficult to upgrade manufactured housing. At 14.4 percent, the share of mobile homes in the housing stock of co-op territories is more than double the U.S. average of 6.1 percent¹. The average monthly electricity usage for households served by electric cooperatives is 1,138 kW a month, significantly higher than the IOU average of 836 kWh or the muni average of 908 kWh².

These facts about the electric cooperatives' generation portfolios, rural America's energy needs and usage exemplify why NRECA continuously strives to keep EPA regulatory initiatives reasonable and their impacts on the rural electric consumer cost of electric service affordable.

¹ Mobile home data is based on an NRECA analysis using EIA residential consumers and EASI 2015 demographic data.

² Average household usage is based on EIA 2015 residential consumers and residential sales pulled from Ventyx Energy Velocity.

Specific to this rulemaking, NRECA believes that the rulemaking docket supports a GHG SER of at least 75,000 tons per year (tpy) as the minimum trigger for requiring GHG Best Available Control Technology (BACT) PSD review for “anyway sources,” and that EPA should accept and consider comments directed at developing a significantly higher SER.

II. Comments on the Proposal

- **The proposal correctly concludes establishing a SER of 75,000 tpy is preferable to establishing a lower threshold.**

The proposal examines four categories of data relating to past PSD reviews, including PSD GHG reviews and control strategy reviews likely applicable to BACT GHG determinations in setting the proposed SER level of 75,000 tpy. EPA’s key findings based on this examination significantly inform a proposed SER of at least 75,000 tpy. For example, existing reviews of past permitting actions show that sources obtaining PSD permits for emissions other than GHGs also had GHG emissions exceeding 75,000 tpy. Thus, since this proposal would establish a GHG SER for sources triggering PSD review anyway because of a traditional pollutant SER, these existing PSD permit reviews fully support a SER of at least 75,000 tpy. And, according to the proposal, since major industrial sources were typically associated with GHG emissions of 75,000 tpy or higher, setting a SER level below the proposed level would be of “trivial or no value” because meaningful reductions could not be expected from anyway sources associated with a SER of less than 75,000 tpy. As EPA notes, a principle reason for this conclusion is that the primary means of reducing GHGs from smaller units is energy efficiency measures that would not be expected to yield meaningful reductions. Fed. Reg. at 68128. Lastly, as EPA points out, a SER at the 75,000 tpy level is consistent with the fundamental principles for establishing a de minimis exception. Fed. Reg. at 68113.

- **There is no discernable benefit to setting a SER level below the 75,000 tpy proposal.**

In the alternative, EPA solicits comments on setting a GHG SER level somewhere between 30,000 and 45,000 tpy. Fed. Reg. at 68131. EPA offers little justification for this alternative; in fact, setting a SER within that range would contradict this rulemaking’s record. As EPA admits,

the most significant industrial categories and sources would be brought into the PSD review process at levels higher than 75,000 tpy, and the degree of GHG reductions by applying BACT for projects triggering PSD review at SER levels below this would "... yield a gain of trivial or no value." Fed. Reg. at 68137. EPA and the states administering the PSD program have much more productive things to do than administering GHG portions of the PSD program that are of trivial or no value. The regulated community likewise should not be burdened with complying with a program of trivial or no value. For these reasons, the SER level should be set at 75,000 tpy or higher.

- **EPA should not preclude setting a SER above 75,000 tpy.**

EPA's failure to offer for comment the establishment of a SER above 75,000 tpy is arbitrary and capricious. The proposal's limited rationale that there does not appear to be a basis for going above this level is woefully inadequate for several readily apparent reasons. First, a main purpose of notice and comment rulemaking process is to give interested parties opportunities to submit information supporting the proposal or to submit information supporting alternative approaches and, ultimately, to inform the agency in its decision-making. The proposal states that "... there does not appear to be a basis to set a GHG SER level above 75,000 tpy...." Fed. Reg. at 68113. But, by foreclosing the option to consider SER levels *above* the proposed level, EPA is short-circuiting its own rulemaking process. Indeed, if EPA were to consider comments on SER levels above 75,000 tpy, it might become apparent to EPA that a higher level is appropriate.

Second, as pointed out in the proposal, EPA's own "equivalency analysis," which compares the existing NO_x SER 40 tpy PSD trigger with a source's expected associated GHG increases, indicates that GHG levels for major combustion sources are well above the 75,000 tpy proposed SER. Fed. Reg. at 68126. In other words, if EPA were to equate the PSD SER level of the traditional NO_x pollutant (40 tpy) with the anticipated GHG increases associated with the same projects, the GHG emission increases would be "well in excess" of the proposed 75,000 tpy. Fed. Reg. at 68126. Additionally, when EPA conducted a similar analysis equaling non-criteria pollutants' SER levels at 20 percent NSPS and 10 percent NESHAP with GHG increases, it found that the GHG increases four times greater than the proposed 75,000 tpy SER. Fed. Reg. at

68123. The results of EPA's own analyses here alone are reason enough to entertain comments directed at developing a GHG SER level above the 75,000 tpy proposal.

- **Carbon Capture and Sequestration (CCS) is not BACT technology.**

Although not directly a part of this rulemaking EPA lists potential Best Available Control Technologies (BACT) it claims to be applicable to GHG emission sources to evaluate their potential for reducing GHG emissions at "anyway sources." Fed. Reg. at 68133. The proposal references the recently issued rule under Section 111(b), the NSPS for new fossil fuel-fired electric generating units (EGUs), which requires partial CCS. See 80 Fed. Reg. 64501 (October 23, 2015). Because, as the proposal references, the minimum BACT requirements must meet the relevant NSPS, we point out that EPA's assertion that CCS is a viable potential BACT technology applicable to reducing GHG emissions at fossil fuel-fired EGUs continues to be unsubstantiated and based on conclusions reached in the earlier EGU NSPS where the assertion is undergoing legal challenges that will likely succeed.