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INDEPENDENT REGULATORY
REVIEW COMMISSION

DATE: June 29, 2007

FROM: ARIPPA (Delivered via E-MAIL and by Hand)

TO: PA Environmental Quality Board P.O. Box 8477 Harrisburg, PA 17105-8477

RE: **Proposed Rulemaking – 25 PA CODE CHS 121, 129 AND 145 Clean Air Interstate Rule**

Published: 37 Pa B 2063 [Saturday, April 28, 2007].

Clean Air Interstate Rule

25 PA CODE CHS 121, 129 AND 145

Dear Chair and Members of the Environmental Quality Board:

ARIPPA, on behalf of its member companies, hereby provides comments (pages 3-6) to the PA Environmental Quality Board (the "Board") concerning the above referenced proposed rulemaking. ARIPPA provides these comments concerning the Department's proposal to regulate, 25 PA CODE CHS 121, 129 AND 145 **Clean Air Interstate Rule as published in the PA Bulletin** 37 Pa B 2063 on Saturday, April 28, 2007

I. Industry and ARIPPA; historical significance and background:

The attached "Notable Quotes and Fact Sheet" and "CAIR letter from Governor Rendell and Secretary McGinty to Congressional Delegation" shall be deemed an integral part to our comments. Pennsylvania's heritage as a major coal producer has unfortunately left us with a 14 billion dollar "environmental problem" that includes waste coal. This problem is recognized by Governor Rendell and Secretary McGinty (quote: "when left on the ground waste coal presents a grave environmental threat... a public health and safety hazard... and contributes to the acid mine drainage that is the second leading water pollution in the Commonwealth, literally killing all life in some 2000 stream miles in the state"). Through the conversion of waste coal into energy and environmentally beneficial by-products for abandoned mine land reclamation, ARIPPA plants represent the most significant tax free effort toward resolving our 14 billion dollar "environmental problem".

Since the proposed rulemaking incorporates by reference, with some exceptions, the Clean Air Interstate Rule (CAIR) and the Commonwealth proposes to submit the proposed rulemaking, once adopted, to the EPA as a SIP revision to satisfy the EPA's CAIR SIP requirements, it is accordingly important to note the damaging effects the current EPA CAIR rule has on the waste coal to energy industry. In the recently finalized "Clean Air Interstate Rule (CAIR)" the EPA penalizes

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waste coal plants, while exempting other waste-burning sources such as solid waste. EPA's CAIR rule subjects waste coal plants to the Clean Air Act for the first time without issuing any emission allocations. Unlike other regulated entities, ARIPPA plants without allocations will have to purchase all allowances to remain in operation. This economic hardship (without the ability to "pass through" such costs to rate payers) has been described by Governor Rendell and Secretary McGinty as (quote "environmentally damaging and economically unfair"). In order to maintain a competitive operating environment that ultimately translates into a stronger Pennsylvania through new economic opportunities, greater domestic energy generating capacity, and fewer environmental challenges, we request the Board to adopt our suggested comments which were reviewed with PADEP staff in person earlier this year. ARIPPA would like to publicly thank the PADEP for all of its considerations and industry support concerning the CAIR rule including certain provisions in these SIP revisions to satisfy the EPA's CAIR SIP requirements. ARIPPA requests that the members of the Board review the attached documents, consider the unique nature of the CFB technology employed by the ARIPPA facilities, the unfair treatment of our industry under the current EPA CAIR regulations, and the environmental benefit that our industry provides to the Commonwealth as they review the following comments.

Thank you



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II. **ARIPPA Suggested Amendments/Specific Comments:** Comments below are in a red color and in "mark-up format" naming deletions and underlining additions so that the Board and staff can easily follow and implement the effects of our suggestions. Comments concern 145.212 CAIR NOx allowance allocations

III. **REASONING:** Indicted below in blue color for easy reference.

145.212 CAIR NOx allowance allocations

ARIPPA proposes to clarify that the provisions of this Subsection (d) relating to allocations under Subsections c and f (1) and (f) (2), but do not extend to the separate provisions in (f)(3)-(5).

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(d) The Department will allocate CAIR NO_x allowances to each CAIR NO_x unit and qualifying resource under subsection (c), (f)(1) or (f)(2) in an amount determined by multiplying the total amount of CAIR NO_x allowances allocated under subsection (c), (f)(1) or (f)(2), as applicable, by the ratio of the baseline heat input of the CAIR NO_x unit or qualifying resource to the total amount of baseline heat input of all CAIR NO_x units and qualifying resources qualifying for a CAIR NO_x allowance allocation under subsection (c), (f)(1) or (f)(2), as applicable, and rounding to the nearest whole allowance as appropriate.

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ARIPPA raises the question as to why the proposed regulation would limit this additional allocation for qualifying sources to only two control periods. The need/justification for the additional allocation does not end after those two control periods. ARIPPA also proposes some clarifying changes to subsection (f) to make clear that this provision relates to additional NO_x allowances, beyond the baseline allocation. Finally, we propose to clarify that the exemption referenced in the acid rain provisions of the Clean Air Act is the exemption from the SO₂ allowance compliance provisions of that program.

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(f) Allocations to qualifying resources and units exempted by 42 U.S.C. § 7651d (g) (6) (A) (relating to phase II sulfur dioxide requirements). For each [two] control period [s] (why 2 control periods?) beginning with 2010 and thereafter, the Department will allocate CAIR NO_x allowances to qualifying resources under paragraph (1) in the Commonwealth that are not allocated CAIR NO_x allowances under subsection (c) and additional CAIR NO_x allowances under paragraph (2) to existing units that were exempted at any time under 42 U.S.C. § 7651d(g)(6)(A) from the SO₂ allowance compliance provisions of EPA's Acid Rain program and that commenced operation prior to January 1, 2000 but did not receive an allocation of SO₂ allowances under EPA's Acid Rain program, as follows:

(1) The Department will allocate CAIR NO_x allowances to a tier I renewable energy qualifying resource or tier II demand side management energy efficiency qualifying resource in accordance with subsections (c) and (d) upon receipt by the Department of an application meeting the requirements of this paragraph. The number of allowances allocated to the qualifying resource will be determined by converting the certified quantity of electric energy production, useful thermal energy and energy equivalent value of the measures approved under the Pennsylvania Alternative Energy Portfolio Standard to equivalent thermal energy. In order to receive allowances under this subsection, the qualifying resource must have commenced operation after January 1, 2005, must be located in the Commonwealth and must not be a CAIR NO_x unit. The following procedures apply:

(i) The Department will transfer the allowances into an account designated by the owner or operator of the qualifying resource, or into an account designated by an aggregator approved by the Public Utility Commission or its designee.

(ii) The applicant shall provide the Department with the corresponding renewable energy certificate serial numbers.

(iii) At least one whole allowance must be generated per owner operator or aggregator for an allowance to be issued.

ARIPPA proposes a minor clarification to reflect that the Department would provide the additional allocation for each compliance period beginning with 2010. We believe that this is clearly the intention of this provision, but believe that an explicit statement would be clearer.

(2) For each compliance period beginning with 2010 and thereafter, the Department will allocate CAIR NOx allowances to CAIR SO₂ units that commenced operation prior to January 1, 2000, and that have not received an SO₂ allocation for that compliance period, as follows:

The following provisions provide no specific information about the timing of the application for the initial allocation, and ARIPPA wishes to clarify that the application need not occur before the commencement, or after the conclusion, of the compliance period. Most importantly, this subsection (i) would attempt to specifically address the principal point of this section -- the reference to "a cost equivalent additional amount CAIR NOx allowances that were needed during each CAIR NOx allowance cycle". ARIPPA is concerned that this term could be regarded as ambiguous and difficult to implement. ARIPPA is seeking "equivalency", nothing more or less. Therefore, we have proposed new subsections (ii) and (iii) as a specific methodology for calculation of the "cost equivalent" amount in additional NOx allowances. We also propose to clarify that an application submitted for an additional allocation must include sufficient information to support the request.

(i) At any time during the compliance period, the owner or operator of a unit may apply to the Department under this subsection to receive an allocation of CAIR NOx allowances in addition to the allocation of CAIR NOx allowances made to the source for that compliance period in accordance with subsection (c).

(ii) The additional quantity of CAIR NOx allowances that may be awarded to the source under this provision shall be determined using the following formula:

$$N = (\text{COST}_{\text{SO}_2} * \text{EM}_{\text{SO}_2}) / \text{COST}_{\text{NO}_x}$$

Where

N = the quantity of additional CAIR NOx allowances (tons) that may be awarded to the source under this provision;

$\text{COST}_{\text{SO}_2}$ = the prevailing market rate for CAIR SO₂ allowances (\$/ton) as of January 1 of the relevant compliance period;

EM_{SO_2} = the projected SO₂ emission rate (tons) for the source for the relevant compliance period; and

$\text{COST}_{\text{NO}_x}$ = the prevailing market rate for CAIR NOx allowances (\$/ton) as of January 1 of the relevant compliance period.

(iii) Any application for additional CAIR NOx allowances submitted pursuant to subsection (f)(2)(i) shall include a proposed value for EM_{SO_2} , the projected SO₂ emission rate (tons) for the source for the relevant annual compliance period, and information supporting the proposed value of EM_{SO_2} .

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Similar to the prior comment, we have proposed revisions to subsection (iv) (previously identified as subsection (ii)) to clarify the management of "excess" CAIR NOx allowances for qualifying facilities receiving a "bonus" allocation. Once again, we believe this to be completely consistent with the intended application of these provisions, and are merely proposing greater specificity to clarify implementation.

(iv) If the quantity of CAIR NOx allowances allocated for the unit in accordance with subsection (c) for the immediately preceding annual compliance period exceeded the unit's actual emissions of NOx for that compliance period, then the additional quantity of CAIR NOx allowances that may be awarded to the source under this provision shall be determined using the following formula:

$$N = [(COST_{SO_2} * EM_{SO_2}) - (COST_{NOx} * (ALL_{NOx} - ACT_{NOx}))] / COST_{NOx}$$

where

N, COST_{SO₂}, EM_{SO₂}, and COST_{NO_x} are defined above;

ACT_{NO_x} = the reported actual NOx emission rate (tons) for the source for the prior annual compliance period; and

ALL_{NO_x} = the quantity of CAIR NOx allowances allocated for the unit in accordance with subsection (c) for the prior annual compliance period.

(3) The Department will review each CAIR NOx allowance allocation request under subsection (d) and will allocate CAIR NOx allowances for each control period pursuant to a request as follows:

(i) The Department will accept an allowance allocation request only if the request meets, or is adjusted by the Department as necessary to meet, the requirements of this section.

(ii) On or after January 1 of the year of allocation, the Department will determine the sum of the CAIR NOx allowances requested.

(iii) Any errors in allocations discovered after allocations are made shall be corrected in a subsequent allocation cycle.

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While ARIPPA questions utilizing "historic data" to determine that 1.3% of the annual NOx budget would be sufficient to accommodate the additional NOx allocation program for qualifying sources...we none-the-less recognize the uncertainty of estimating the future markets for NOx and SO2. ARIPPA's internal estimates of future markets indicate that the necessary percentage may indeed need to be substantially higher. Accordingly we have not suggested any changes to the 1.3% figure, at this time, in hopes that such percentage will be regularly and periodically reviewed and updated. We also wish to clarify that the allocation is both for the annual and the ozone season budgets.

The remaining comments for this section propose to simply clarify the intent of the provision, except to provide that the additional NOx allocation program would not terminate in 2016, since the underlying rationale for the program will continue beyond 2016 and paragraph (5) below addresses the ability of the Department to extend, terminate or otherwise modify the allocations at any time in the future with proper notification.

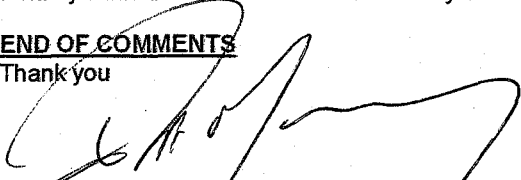
(4) Up to 1.3 percent of the Commonwealth's annual NOx budget and up to 1.3 percent of the Commonwealth's NOx Ozone Season budget are available for allocation in each control period beginning in 2010 and thereafter, for the purpose of providing additional CAIR NOx allowances under subsection (f)(2).

We are proposing clarifying changes to distinguish between the additional NOx allowance allocation addressed by this section and the baseline NOx allowance allocation. We also propose to clarify which sources qualify for this additional allocation, and delete the potentially confusing reference to the acid rain exemption, since this is adequately addressed in our proposed revisions to the introductory language of subsection (f).

(5) Notwithstanding the provisions of paragraphs (2) through (4), the Department may extend, terminate or otherwise modify the allocation of additional CAIR NOx allowances made available for allocation to relevant CAIR SO2 units under subsection (f)(2), after providing notice in the Pennsylvania Bulletin and at least a 30-day comment period.

END OF COMMENTS

Thank you



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One Page Summary: Proposed Rulemaking – As published in the PA Bulletin 37 Pa B 2063 on Saturday, April 28, 2007

Pennsylvania's heritage as a major coal producer has unfortunately left us with a 14 billion dollar "environmental problem" that includes waste coal. This problem is recognized by Governor Rendell and Secretary McGinty (quote: "when left on the ground waste coal presents a grave environmental threat... a public health and safety hazard... and contributes to the acid mine drainage that is the second leading water pollution in the Commonwealth, literally killing all life in some 2000 stream miles in the state"). Through the conversion of waste coal into energy and environmentally beneficial by-products for abandoned mine land reclamation, ARIPPA plants represent the most significant tax free effort toward resolving our 14 billion dollar "environmental problem"

Since the proposed rulemaking incorporates by reference, with some exceptions, the Clean Air Interstate Rule (CAIR), it is accordingly important to note the damaging effects the current EPA CAIR rule has on the waste coal to energy industry. EPA's CAIR rule subjects waste coal plants to the Clean Air Act for the first time without issuing any emission allocations. Unlike other regulated entities, ARIPPA plants without allocations will have to purchase all allowances to remain in operation. This economic hardship (without the ability to "pass through" such costs to rate payers) has been described by Governor Rendell and Secretary McGinty as (quote "environmentally damaging and economically unfair"). ARIPPA requests that the members of the Board consider the unique nature of the CFB technology employed by the ARIPPA facilities, the unfair treatment of our industry under the current EPA CAIR regulations, and the environmental benefit that our industry provides to the Commonwealth as they review the following comments.

ARIPPA is a trade association comprised of fourteen (14) waste coal-fired electric generating plants located in both the anthracite and bituminous regions of Pennsylvania. ARIPPA's fourteen member facilities constitute the overwhelming majority of the waste coal power production industry in the country.

REASONING: COMMENTS/AMENDMENTS:145.212 CAIR NOx allowance allocations

1. Clarify that the provisions of this Subsection (d) relating to allocations under Subsections c and f (1) and (f) (2), but do not extend to the separate provisions in (f) (3)-(5).
2. Question as to why the proposed regulation would limit additional allocation for qualifying sources to only two control periods; Clarifying changes to subsection (f) to make clear that this provision relates to additional NOx allowances, beyond the baseline allocation; Clarify that the exemption referenced in the acid rain provisions of the Clean Air Act is the exemption from the SO2 allowance compliance provisions of that program
3. Minor clarification to reflect that the Department would provide the additional allocation for each compliance period beginning with 2010.
4. Clarify that the application need not occur before the commencement, or after the conclusion, of the compliance period; Concern that certain terms could be regarded as ambiguous and difficult to implement, proposed new subsections (ii) and (iii) as a specific methodology for calculation of the "cost equivalent" amount in additional NOx allowances; Propose to clarify that an application submitted for an additional allocation must include sufficient information to support the request
5. Utilizing "historic data" to determine that 1.3% of the annual NOx budget would be sufficient to accommodate the additional NOx allocation program for qualifying sources is questionable but ARIPPA recognizes the uncertainty of estimating future markets. Accordingly we have not suggested any changes to the 1.3% figure, at this time, in hopes that such percentage will be regularly and periodically reviewed and updated. We also wish to clarify that the allocation is both for the annual and the ozone season budgets; Clarify the intent of the provision, except to provide that the additional NOx allocation program would not terminate in 2016, since the underlying rationale for the program will continue beyond 2016 and paragraph (5) below addresses the ability of the Department to extend, terminate, or otherwise modify the allocations at any time in the future with proper notification
6. Clarifying changes to distinguish between the additional NOx allowance allocation and the baseline; Clarify which sources qualify for additional allocation, and delete confusing reference to the acid rain exemption

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NOTABLE QUOTES AND FACT SHEET:

Kathleen A. McGinty, Secretary, PA Department of Environmental Protection

"Pennsylvania's existing waste coal industry has and continues to provide tremendous environmental and economic benefits to the Commonwealth's citizens. However, because many of the smaller merchant facilities have power purchase agreements that will expire, in many cases, by 2013 we believe there is a need to continue to incentivize their existence and the reclamation work they are doing." "These independent power producers have been very useful in converting legacy mine spoil piles to valuable electric power, while reclaiming our impacted landscape. We support the fair and continued operation of these facilities, and urge you to seek exemption of these units from the CAIR SO2 trading program."

Senator Mary Jo White, Chairman, and Raphael J. Musto, Democratic Chairman, Senate Environmental Resources & Energy Committee. "These small, independent plants contribute greatly to cleaning up waste coal piles and reducing the threat posed from air and water pollution. Already, Pennsylvania waste coal facilities have removed over 95 million tons of waste coal and reclaimed over 3,500 acres of abandoned mine lands. Additionally, the generating capacity is crucial to meeting the Commonwealth's energy supply needs. Nearly 2,500 Pennsylvania jobs are either directly or indirectly connected to these plants. We urge you to ensure that the U.S. Environmental Protection Agency implements the Clean Air Act's provisions and exempts these waste coal plants from the SO2 requirements of the CAIR program. Pennsylvania Secretary of Environmental Protection Kathleen McGinty has also expressed her support for this exemption."

Representative Bud George Chairman of the Pennsylvania House Environmental Resources and Energy Committee "First, these plants are successfully eliminating the threats of air and groundwater contamination in the mining region of Pennsylvania, where hundreds of millions of tons of waste coal remain on the ground from the mining industry. I also understand that the plants were built with state-of-the-art technology, and have SO2 emissions that are far lower than other power producers. I believe that we all share the responsibility of ensuring the continued operation of these facilities."

Representative Scott E. Hutchinson, Minority Chairman of the Pennsylvania House Environmental Resources and Energy Committee "These waste coal plants also provide high-paying manufacturing jobs for our citizens, and often are located in areas that already suffer economically. I understand that the plants account for approximately 800 direct and 1700 indirect jobs. Municipal bondholders' interests are also at stake: the plants were financed by Resource Recovery municipal bonds in order to provide the multiple benefits delivered by these small power producers to the Commonwealth. They are also among the cleanest power generators in terms of mercury emissions."

Brian J. Hill, President and Chief Executive Officer, Pennsylvania Environmental Council "PEC has been actively engaged in efforts to promote remediation of abandoned mine sites through the Commonwealth, both at the program and policy level. The recent extension of the Federal Abandoned Mine Land Trust Fund underscores the extent of the need in Pennsylvania... To date, Pennsylvania waste coal facilities have removed more than 95 million tons of waste coal and reclaimed over 3,500 acres of abandoned mine lands. Waste coal facilities were originally exempt from the SO2 cap and trade program because they were relatively small, met all of the environmental control criteria included under Title IV of the Clean Air Act, and were required to sell their power at fixed contracted rates... PEC urges your assistance to help maintain the waste coal facility exemption consistent with Congress's intent." PennFuture (referred to by the Philadelphia Inquirer as PA's leading environmental organization) "PennFuture's leadership was crucial in creating a new energy law, the Advanced Energy Portfolio Standard, which helps create a market for both renewable energy, and for eliminating the tons of waste coal by using new technology to convert that waste to energy."

Organized in 1988, ARIPPA is a trade association comprised currently of fourteen (14) waste coal-fired electric generating plants. ARIPPA's focus is on beneficial use of waste in the form of fossil fuel—waste coal. Accordingly, ARIPPA represents the owners and operators of independent, non-utility waste coal electric power generation stations.

ARIPPA member plants are located in the anthracite and bituminous coal regions of the United States. ARIPPA is unique among the "cogeneration associations" because our sustaining plant members are all operating fossil fuel-waste coal fired-power plants utilizing circulating fluidized bed combustion technology. **Historical significance and background:** For nearly two centuries coal has been mined. Mining operations continue today and will likely continue for at least another century. In the past coal that was very low in heat content (BTU's) and accordingly undesirable in the marketplace was randomly discarded all across the landscape. This "waste coal" accumulated and lay idle on thousands of acres of land... land that possessed a variety of aesthetic, useful, and beneficial qualities. Over time wind, rain, and other naturally occurring environmental conditions caused the piles of "waste coal" to alter and/or expand their "environmental fingerprint" on limited land and water resources.

A few decades ago with technological advancements and support from government and private investors a beneficial use was finally developed to utilize "waste coal" in quantity. This beneficial use today generates electricity to meet the energy needs of hundreds of thousands of households. Utilizing waste coal from current and past mining activities, and returning thousands of acres of our land (formerly hidden under tons of an "idle waste") back to its natural beauty and usefulness makes electricity generated from waste coal truly unique. Understanding the unique environmental advantages of the continued beneficial use of waste coal is not only pivotal to understanding the motives behind our political or regulatory positions but also the true partnership our industry shares with the goals and ideals of the PA Department of Environmental Resources.

The CFB industry began in Pennsylvania in response to the oil and gasoline shortages during the 1970s, and the passing of the Public Utility Regulatory Policies Act (PURPA) in 1978. This act required that electric utilities buy the electricity produced by facilities that met certain qualifications, such as the use of nontraditional fuel. The piles of waste coal (otherwise generically referred to as "waste" coal, coal refuse, culm in anthracitic fields, or gob in bituminous fields) met the criteria for nontraditional fuel under PURPA. At about the same time, the CFB technology was being developed which was capable of converting low-heating-value carbonaceous material and had emission controls that met regulations mandated by the Clean Air Act of 1970. The first CFB plant in Pennsylvania became operational in 1987, and since that time, the plants have collectively converted 110 million tons of waste coal and beneficially utilized over 73 million tons of CFB ash for reclamation of abandoned mine lands. It is estimated that the state's CFB plants annually convert 10.7 million tons of waste coal to electricity and consequently produce approximately 7.9 million tons of alkaline-rich by-products per year. More than 90% of these beneficial by-products are used for mine reclamation projects, filling mine pits, and the reclamation of coal refuse areas. Another 5%–8% is used as a replacement for lime for acid mine drainage prevention or as a soil amendment/replacement at mining sites. The remaining 2% is used for other beneficial uses such as antiskid for roadways, pipe bedding, and other uses (Joint Legislative Air and Water Pollution Control and Conservation Committee, 2004).

Description of ARIPPA Member Facilities: ARIPPA's fourteen member facilities constitute the overwhelming majority of the waste coal power production industry in the country. Each of the ARIPPA member facilities uses a stationary coal-fired boiler that serves a generator with a nameplate capacity of more than 25 MWe and produces electricity for sale.

The ARIPPA facilities provide a unique environmental benefit by converting waste coal as fuel and utilizing circulating fluidized bed ("CFB") technology. ARIPPA facilities utilize coal refuse from both past and current mining activities, and thereby reclaim abandoned strip mines and abate acid mine drainage from waste coal piles at no cost to taxpayers. By combusting waste coal piles, ARIPPA members are removing one of the principal sources of contamination to surface water and groundwater.

In addition to the environmental benefits resulting from the combustion of waste coal, ARIPPA facilities have minimized the air emissions traditionally associated with coal-fired electricity generation by incorporating state-of-the-art, clean coal technology utilizing CFB boilers. Because the CFB units are designed as inherently clean burning sources of electricity, they emit potentially air pollutants, at significantly reduced rates relative to conventional coal-fired utility units.

ARIPPA MEMBERSHIP CONTACT INFORMATION:

Sustaining Members:

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243 Rubisch Road
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Phone (814) 472-1120
Fax (814) 472-1130
www.northernstargeneration.com/cambria.html

Ebensburg Power Company
2840 New Germany Road
P. O. Box 845
Ebensburg, PA 15931-0845
Phone (814) 472-1140
Fax (814) 472-1143
www.ebensburgpower.com

Inter-Power/Ahicon Partners, LP
2591 Wexford-Bayne Road
Suite 100
Sewickley, PA 15143
Phone (724) 933-7647
Fax (724) 933-7657
www.nauticom.net/www/megawatt/power.htm

Northampton Generating Company, LP
1 Horwith Drive
P.O. Box 460
Northampton, PA 18067
Phone (610) 261-3077
Fax (610) 261-3075
www.cogentrix.com/plants/northampton.html

Panther Creek Partners
1001 Industrial Road
Nesquehoning, PA 18240
Phone (570) 645-8721
Fax (570) 645-9763
www.constellation.com

Reliant Energy - Seward Station
595 Plant Road
New Florence, PA 15944
Phone (814) 446-7100
Fax (814) 446-7118
www.reliant.com

Cogentrix Scrubgrass Generating Plant
2151 Lisbon Road
Kennerdell, PA 16374
Phone (814) 385-6661
Fax (814) 385-6704
www.cogentrix.com/plants/scrubgrass.html

Gilberton Power Company
48 Eleanor Avenue
Frackville, PA 17931
Phone (570) 874-4456
Fax (570) 874-2581
www.culm2energy.com

Kimberly Clark Chester Plant
Front & Avenue of the States
Chester, PA 19013
Phone (610) 499-6490
Fax (610) 499-6231
<http://www.kimberly-clark.com/>

Northeastern Power Company
Route 309 South, P.O. Box 7
McAdoo, PA 18237-0007
Phone (570) 929-3242
Fax (570) 929-2233
www.suezenergyna.com

Piney Creek, LP
428 Power Lane
Clarion, PA 16214
(814) 226-8001
Fax (814) 226-7909
www.aciinc.net

Schuykill Energy Resources, Inc.
P.O. Box 112
Shenandoah, PA 17976
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Website in Progress

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Fax (570) 773-0128
www.wheelabratortechnologies.com/

WPS Westwood Generation, LLC
Route 209 South
P. O. Box 312
Tremont, PA 17981
Phone (570) 695-3175
Fax (570) 695-3758
www.wpspower.com/

Supporting Members:

Black River Generation, LLC
P.O. Box 849
Fort Drum, NY 13602
Phone (315) 773-2314
Fax (315) 773-3416

Dominion Generation
North Branch Power Station
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Phone (304) 259-4438
Fax (304) 259-4433

<http://www.dom.com/about/companies/generation/index.jsp>

Edison Energy Mission
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Grant Town, WV 26574
Phone (304) 278-6117
Fax (304) 278-7437
<http://www.edison.com/>

Koppers Industries, Inc.
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Montgomery, PA 17752
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Fax (570) 547-1964
<http://www.koppers.com/>

Morgantown Energy Associates
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Morgantown, WV 26505
Phone (304) 284-2500
Fax (304) 284-2509

Viking Energy of Northumberland
SUEZ Energy Generation NA
909 Cannery Road
Northumberland, PA 17857
Phone (570) 473-7261
Fax (570) 473-7272

Non-Members:

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P. O. Box 409
Marion Heights, PA 17832
Phone (540) 373-3999
Fax (570) 373-1389

Rosebud Operative Services, Inc.
2215 N. Frontage Road
Billings, MT 59101

Sunnyside Cogeneration Associates
P. O. Box 10
East Carbon, UT 84520
Phone (435) 888-4476
Fax (435) 888-2538

Proposed Plants:

Beech Hollow Power Plant
Robinson Township, PA

Nemacolin Power Plant
Cumberland Township, PA

River Hill Power Company, LLC
Karthus, PA

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ENVIRONMENTAL QUALITY BOARD



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

June 7, 2007

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ENVIRONMENTAL QUALITY BOARD

THE GOVERNOR

Dear Member of Congress:

Later today, Congressman John E. Peterson will offer an amendment to the Interior and Environment Appropriations Bill for FY 2008 that is critically important to protect the environment, bolster the economy, and ensure energy security in Pennsylvania and across some 13 other states and jurisdictions. Specifically, the amendment would limit the Environmental Protection Agency's ability to proceed with a policy that inexplicably harms some of the cleanest power plants in the country that use waste coal as a fuel source. These plants generate electricity that is important in enabling power availability and reliability in the PJM wholesale electricity market that spans key areas of the Midwest and Northeast.

The Peterson amendment fulfills the intent Congress demonstrated in 1990 by exempting the facilities in question under the Clean Air Act. Waste coal-fired facilities—those fueled by anthracite culm and refuse and bituminous refuse—are very low emitters of sulfur dioxide or SO₂ because of the "circulating fluidized bed (CFB)" technology employed at these plants. It is this clean burning property that prompted Congress to exempt these sources from the Clean Air Act's Cap and Trade Program—an express Congressional directive that EPA has acted to overturn in its recently finalized "Clean Air Interstate Rule (CAIR)." At the same time EPA penalizes waste coal plants, it nonetheless exempts other waste-burning sources such as solid waste.

The EPA's action is doubly harmful to waste coal plants. First, it subjects waste coal plants to the Clean Air Act for the first time. And second, unlike other regulated entities, waste coal plants are afforded no emission allocations by EPA and uniquely will have to purchase all of the allowances required to remain in operation. The Commonwealth of Pennsylvania has repeatedly appealed to EPA not to take these actions and once taken to reverse them. Our entreaties were unsuccessful and EPA has proceeded with this environmentally damaging and economically unfair policy.

Pennsylvania's heritage as a major coal producer has left us with billions of tons of waste coal that is piled in communities across the state. These piles are domestic energy sources that have significant value when put into production in CFB cogeneration plants. When left on the ground, waste coal presents a grave environmental threat. Runoff from these piles contributes to the "abandoned mine drainage" that is the second leading water pollution problem in the commonwealth, literally killing all life in some 2000 stream miles in the state. Moreover, waste coal piles are a public health and safety hazard. Every year people are injured and killed while climbing or recreating on these waste mountains, and, in many places, the piles also are smoldering or on fire, destroying the quality of life in communities burdened by them.

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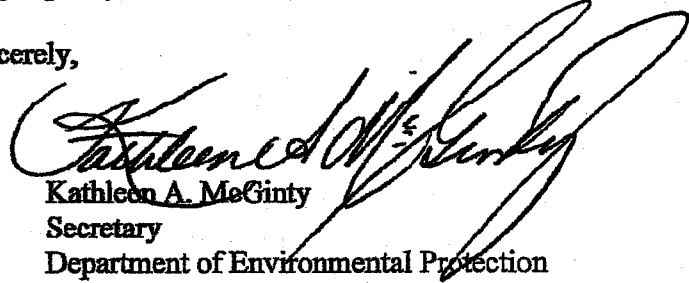
It is therefore imperative that these facilities continue to be exempted from the Cap and Trade program. Subjecting these small power production facilities to the Clean Air Act's SO2 Cap and Trade Program and failing to afford the plants any SO2 allocation means the owners and operators must purchase all of their required SO2 allowances. This is a damaging economic hardship for this industry, especially as many small power production waste coal facilities are locked into long-term fixed price contracts that limit avenues by which to recoup those costs.

We strongly urge your support for Congressman Peterson's amendment. Exempting these operations from the Clean Air Interstate Rule will help maintain a competitive operating environment that ultimately translates into a stronger Pennsylvania through new economic opportunities, greater domestic energy generating capacity, and fewer environmental challenges.

Sincerely,



Edward G. Rendell
Governor
Commonwealth of Pennsylvania



Kathleen A. McGinty
Secretary
Department of Environmental Protection