To: Chapman, Apple[Chapman.Apple@epa.gov]
From: Dykes, Teresa
Sent: Mon 3/5/2018 10:52:20 PM
Subject: RE: PN memo
Project Emissions Accounting Guidance Memorandum_draft_3-2-18-TED.docx

I made edits to the clean version that Juan sent out. There are three areas of concern:

1. While edits to the earlier version make a recognition with regard to the difference in existing units and new units, there are still several areas where the guidance needs to be clear that decreases at new units must be enforceable. I have indicated those in the attached.
2. The use of the word "may" when discussing an emission unit's increase as well as decreases needs to be more precise about the emissions increases or decreases that result from the project- not just that may result. Post hoc justification of emissions is something that enforcement has struggled with when bringing cases based on the 2002 reform applicability test.
3. The last two paragraphs that discuss the interplay of project netting with aggregation of projects should not go out with this guidance because it is important that they properly reflect what will be said in the aggregation rule- and that has not been fully discussed. For example, allowing a source to aggregate projects solely on the basis of time, while EPA is not allowed to aggregate solely on the basis of time in inconsistent. As another example, this document uses "reasonability" as a basis to aggregate, which is inconsistent with the "substantially related either technically or economically" that is used in the aggregation rule.

I will send separately to Juan- but wanted you to have a copy beforehand.

Terri Dykes

Senior Attorney

Office of Enforcement and Compliance Assurance

1200 Pennsylvania Ave. NW

Washington, DC 20460

202.564.9883

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From: Chapman, Apple
Sent: Monday, March 05, 2018 4:37 PM
To: Dykes, Teresa <Dykes.Teresa@epa.gov>
Subject: Re: PN memo

Can you send this directly to Juan? I have been swamped with meetings all day.

Sent from my iPhone

On Mar 2, 2018, at 3:51 PM, Dykes, Teresa <Dykes.Teresa@epa.gov> wrote:

> Apple- I do not think our concern about "new" units has been adequately addressed in this revision- counter to what Bill W. said on the phone. I have made a few edits and suggested a footnote to make it clearer.

Terri Dykes

Senior Attorney

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From: Doster, Brian

Sent: Friday, March 02, 2018 3:08 PM
To: Chapman, Apple <Chapman.Apple@epa.gov>
Cc: Dykes, Teresa <Dykes.Teresa@epa.gov>; Krallman, John <krallman.john@epa.gov>
Subject: RE: PN memo

In response to your request below, attached are the comments that OGC sent to OAQPS on the "project netting' memo on Tuesday. The content highlighted in yellow are additions I made after a prior version we sent to OAQPS on Monday. In addition, yesterday, I sent OAR the recommended footnote text below to address the procedural interplay of this memo and the 2006 rule proposal. Sorry I did not see your request before the call at 2 today.

# # # #

Proposed Footnote

[redacted]

[redacted]

[redacted]

From: Chapman, Apple
Sent: Friday, March 02, 2018 1:00 PM
To: Doster, Brian <Doster.Brian@epa.gov>
Cc: Dykes, Teresa <Dykes.Teresa@epa.gov>
Subject: PN memo

Brian

I had a long conversation with Raj yesterday. He told me that the Project Netting memo has been revised since we last saw it and that some of OGC's comments were accepted. Can you share with us what you sent to OAQPS. Terri can share her comments with you as well. We were asked not to send forward line edits (so we did not) but we did put together line edits for our own internal purposes (just to have a record of the changes we thought were necessary).

Thanks.

Ms. Apple Chapman |Deputy Director, Air Enforcement Division | U.S. Environmental Protection Agency

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<dsh rev 2 Clean Project Netting Guidance Memorandum - Copy + bld 2_jtk_TED.docx>