To: Spina, Providence[Spina.Providence@epa.gov]; Chapman, Apple[Chapman.Apple@epa.gov]
From: Dykes, Teresa
Sent: Thur 2/1/2018 2:54:26 PM
Subject: RE: Draft Project netting Response to LBT for a quick review by 2/2/18

I think the answer to that is no- but I think it is worth putting it in writing. If you need the 2006 FR, there is a binder in my office with it- NSR 2002- 2009.

Terri Dykes

Senior Attorney

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From: Spina, Providence
Sent: Thursday, February 01, 2018 9:52 AM
To: Dykes, Teresa <Dykes.Teresa@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>
Subject: RE: Draft Project netting Response to LBT for a quick review by 2/2/18

Thanks, Terri. As we discussed yesterday, there doesn't seem to be much productive feedback that we could give to OAR.

The only thing that I thought of this morning – is it worth asking OAR whether the decreases need to be enforceable (as in the 2006 proposal) in order to be considered in Step 1? That may be too big of an issue to tackle, but it seems like an important one that the letter leaves open by not addressing explicitly either way.

Providence Spina

202-564-2722

From: Dykes, Teresa
Sent: Wednesday, January 31, 2018 3:23 PM
To: Spina, Providence <Spina.Providence@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>
Subject: FW: Draft Project netting Response to LBT for a quick review by 2/2/18
Importance: High

So- here is what I see the letter does:

1. Explicitly recognized the element of project netting that happened when we changed the applicability test in 2002 to use Projected Actual Emissions. When you "project" future emissions of an emision unit- inherent in that projection is the decreases that occur simultaneously with the increases on a specific unit basis. Think uncontrolled boiler that undergoes a physical change to increase its capacity by 50%- but puts on an SCR at the same time. Before reform, the unit could not have taken the SCR into account in calculating the PTE for Step one- unless took placed enforceable limits governing the SCR operation. Now, if a unit undergoes the same change, there is no requirement for enforceable limits on the operation of SCR when an owner "projects" the emissions increase after the change. This is nothing different than what we have had to deal with since reform.

Example

Boiler 1- emits 300 tpy, does project to increase capacity to 600 tpy- but uses low NOx burners (definitely not BACT)- such that there is a 70% overall reduction after the project. Baseline is 300, PAE is 180 (600*0.3). 180 – 300 = (120 tpy), no significant increase in step 1. And there is no enforceable requirements on the decrease.

Example

This would also be the case if the source said that they were only going to run the controls for 3 months out of the year. Same boiler emits 300 tpy, does project to increase capacity to 600 tpy- but installs SCR with 90% reduction, but says it will only operate the SCR 4 months a year during the highest emitting season. Baseline is 300, PAE is 330 (300 tpy (for 8 months) + 300 tpy (for 4 months) * .1). 330 – 300 = 30, no significant increase in step 1. And there is no enforceable requirements on the seasonal operation.

2. Expands the concept to allow decreases at units at the facility that occur at the same time to be put into the equation without any enforceable limits. Think second uncontrolled boiler where owner puts on controls at the same time to reduce all the emissions increase at the first boiler. This we have not allowed- but rather said that the emissions decrease must be enforceable to include- and it would have been included in Step 2 of the analysis.

Example

Boiler No. 1- emits 300 tpy, does project to increase capacity to 600 tpy- no controls, but shuts down Boiler No. 2 that also emitted 300 tpy. Boiler No. 1 Emissions = 300, PAE – Baseline (600 – 300). Boiler No. 2 Emissions = (300), PAE – Baseline (0 – 300). The sum of the difference, 300 + (300), or the increase of the project is 0. No NSR triggered, and no enforceable limits on the shutdown.

When we proposed allowing project netting in 2006, we said that the decrease (e.g., Boiler No. 2) would have to be enforceable and could not be double counted in a Step 2 netting exercise. The letter does not put these safe guards in the analysis.

This increases the importance of "project aggregation" rulemaking that is getting ready to come out by lifting the stay of the earlier 2006 proposed rule. How a "project" is defined will greatly affect whether decreases are enforceable- and greatly affect complications of finding any increases that trigger NSR major source review.

I don't like it because it makes enforcing NSR requirements infinitely more difficult- but I have nothing to offer to stop this new interpretation.

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From: Rao, Raj
Sent: Wednesday, January 31, 2018 10:29 AM
To: Chapman, Apple <Chapman.Apple@epa.gov>; Dykes, Teresa <Dykes.Teresa@epa.gov>
Cc: Keller, Peter <keller.peter@epa.gov>; Doster, Brian <Doster.Brian@epa.gov>; Krallman, John <krallman.john@epa.gov>
Subject: Draft Project netting Response to LBT for a quick review by 2/2/18
Importance: High

Apple, per our conversation yesterday, please find attached EPA's proposed draft response to LBT regarding their question as to whether decreases in emissions may be accounted for in step 1 of the PSD applicability procedures (project emissions increase) under the existing regulations (*i.e.* "project netting") for a project with existing emissions units only. We have prepared a draft letter responding to the LBT request indicating that we interpret the existing regulations to allow for the accounting of both increases and decreases in emissions in determining whether a project that only involves existing emissions units will result in a significant emissions increase. This conclusion is supported by the plain language in the regulations and the CAA definition of "modification." In this draft response letter, the EPA revises its prior interpretation (contained in the 2010 letter from Region 2 to HOVENSA) and signals that it intends to resolve any confusion about the ability to account for emissions decreases in step 1 of the NSR applicability procedures for all project categories by proposing a supplemental NPRM.

Please note that we are not looking for any line edits – but would like you to flag any heart burn concerns or implications that we may have missed. This is only a 3 1/2 page letter and is moving on a fast track and hence we are asking for your input by **cob 2/2/18.**

Thanks

Raj

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