Message

From: Malave, Maria [Malave.Maria@epa.gov]
Sent: 8/8/2018 5:23:27 PM
To: Lischinsky, Robert [Lischinsky.Robert@epa.gov]; Mia, Marcia [Mia.Marcia@epa.gov]
Subject: RE: issue with ADs addressing OIAI policy & on Rulemaking effort to revise NESHAP GPs to address OIAI policy change

Rob,

Sounds good! I will mentioned it to Amy.

Maria

From: Lischinsky, Robert
Sent: Wednesday, August 8, 2018 12:55 PM
To: Malave, Maria <Malave.Maria@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: issue with ADs addressing OIAI policy & on Rulemaking effort to revise NESHAP GPs to address OIAI policy change

Maria,

Let's (1) not add any ADs related to the OIAI policy and (2) not add a disclaimer at this time (we should wait until we have the rulemaking completed as you mentioned in your previous e-mail).

From: Malave, Maria
Sent: Wednesday, August 08, 2018 12:24 PM
To: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: issue with ADs addressing OIAI policy & on Rulemaking effort to revise NESHAP GPs to address OIAI policy change

Rob,

The issue is that the AD (and many older ADs) was based on the OIAI policy, which has been change, so the basis for our decision is no longer valid- unless we need to wait until the new policy is codified in the NESHAP general provisions. See abstract m170018 (copy below) and the AD itself (attached).

> Abstract for [M170018]:
> Q1: When James Madison University (JMU) in Harrisonburg, VA, removed several boilers on April 8, 2015 lowering it's potential to emit, is the source then considered an area source on that day or does it remain a major source until it is issued a new permit?
> A1: EPA determines that the facility became an area source on the day the boilers were removed; April 8, 2015. The Virginia Department of Environmental Quality on April 9, 2015 affirmed that the boilers were permanently decommissioned and removed from their air emissions inventory lowering the potential to emit to below the 10 ton per year threshold,
> Q2: Are boilers (B1 and B2) installed in 2011 subject to 40 CFR part 63 subpart DDDDD? Boilers B1 and B2, were constructed in 2011 and are

therefore, defined as new boilers under Subpart DDDDD. Boilers B3, B4, and BS were constructed between 1992 and 1997, all prior to June 4, 2010, and therefore defined as existing boilers under NESHAP subpart DDDDD.
A1: EPA determines that the "once in always in" rule applies and these boilers are still subject to the major source requirements of NESHAP subpart DDDDD. JMU became an area source on April 8, 2015, after the NESHAP subpart DDDDD compliance date for new boilers at major sources; April 1, 2013 or upon startup.
Q3: Are existing boilers (B3, B4 and B5), installed between 1992 and 1997, subject to NESHAP subpart DDDDD (boilers at major sources)?
A3: No. EPA determines that the "once in always in" rule does not apply because JMU facility became an area source (on April 8, 2015) prior to January 31, 2016, the subpart DDDDDD compliance date for existing boilers. Therefore, boilers B3, B4, and B5 are not subject to NESHAP subpart DDDDD. NESHAP subpart JJJJJJ, however, applies to facilities that own or operate an industrial, commercial, or institutional boiler that is located at, or is part of, an area source. Therefore, these boilers are subject to the area source standards of 40 CFR part 63 subpart JJJJJJ.
Q4: How does JMU now comply with the initial notification and reporting requirements of subpart JJJJJJ?
A4: For boilers now subject to Subpart JJJJJJ (B3, B4, and B5) that have already submitted an initial notification under Subpart DDDDD, new initial notifications do not need to be resubmitted. Future reporting and notification requirements must comply with the requirements of the applicable subpart.

From: Lischinsky, Robert
Sent: Wednesday, August 8, 2018 11:46 AM
To: Malave, Maria <Malave.Maria@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: issue with ADs addressing OIAI policy & on Rulemaking effort to revise NESHAP GPs to address OIAI policy change

You may had already provided the Region 3 AD. If so, can you resend? Was it issued before or after the issuance of the OIAI memo?

From: Malave, Maria
Sent: Wednesday, August 08, 2018 11:08 AM
To: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: issue with ADs addressing OIAI policy & on Rulemaking effort to revise NESHAP GPs to address OIAI policy change
Importance: High

Hi Rob and Marcia

I plan to address the following two issues with Amy (OGC) but wanted to get your input first since there is an ongoing rulemaking effort to revise the NEHSAP GPs to address the OIAI policy change.

I am recommending that we take some interim steps since the rulemaking process is going to take some time. The two issues at this time are:

1. For the ongoing and subsequent ADI FRNS- I am recommending to not add any more OIAI ADs to the ADI. For the ongoing AD batch/FRN, this would mean to take out a R3 AD on OIAI policy.

2. I recommend also that for ADs already on the ADI, we add a disclaimer pointing to the new OIAI policy change per the January 2018 memorandum (not on ADI-we could add it), unless we want to wait until such policy is codified in the NESHAP GPs.

Thanks.

Maria