Message

From: Ayres, Sara [Ayres.Sara@epa.gov]
Sent: 4/17/2019 2:53:36 PM
To: Mia, Marcia [Mia.Marcia@epa.gov]
Subject: RE: OIAI

I assume so, since it's going forward, but I haven't heard specifically that she's read the current version of the preamble.

Sara Ayres
Air Branch
USEPA / OECA / OC / MAMPD
ayres.sara@epa.gov
(312) 353-6266

From: Mia, Marcia
Sent: Wednesday, April 17, 2019 9:51 AM
To: Ayres, Sara <Ayres.Sara@epa.gov>
Subject: RE: OIAI

Super helpful. Do you know if Teri is okay with this? I can check next week, if you don't. Thanks again.

Marcia B Mia
Air Branch
Office of Compliance
2227A WJCS
U.S. Environmental Protection Agency
202-564-7042

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From: Ayres, Sara
Sent: Wednesday, April 17, 2019 10:39 AM
To: Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: OIAI

OK, so in the current version of the MM2A preamble on the sharepoint, it says we are proposing that PTE HAP limits must meet the proposed effectiveness criteria of being legally and practicably enforceable. They are proposing to change the definition of PTE in 63.2 to "remove the requirement that limits on emissions be federally enforceable and instead require than any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally and practicably enforceable (i.e. "effective")." (preamble summary) And they are proposing to add definitions of legally and practicably enforceable to 63.2.

Here are the proposed definitions:
Legally enforceable means that an emission limitation or other standards meet the following criteria: (1) must include the legal authority under which the limitations or standards are being issued; (2) must provide the right for the issuing authority to enforce it.

Practicably enforceable means that an emission limitation or other standards meet the following criteria: (1) must be written so that it is possible to verify compliance and to document violations when enforcement action is necessary; (2) must specify a technically accurate numerical limitation and identify the portions of the source subject to the limitation. The timeframe for the limitation (e.g., hourly, daily, monthly and annual limits such as annual limits rolled on a monthly basis) taking into account the type of parameter limited (an indirect indicator of emissions such as a continuous monitoring system limit should have a shorter timeframe than a direct measurement of HAP emissions to account for the relationship between HAP emissions and the monitored parameter); and (3) must specify the method of determining compliance, including appropriate monitoring, recordkeeping and reporting.

They are also proposing to change the recordkeeping requirements for applicability determinations in 63.10(b)(3) to clarify that the requirement applies to owner or operators of sources in a source category regulated by Section 112 but are not subject to the relevant standard because of enforceable limitations on the source's PTE. The time limit for retaining such records sufficiently detailed for EPA to make an applicability determination is extended until the source becomes subject to the standard again.

Obviously since this is a proposal, they are requesting comment on all these proposed changes, so we'll see what the final language ends up being. Let me know if you need anything else. Thanks.

Sara Ayres
Air Branch
USEPA / OECA / OC / MAMPD
ayres.sara@epa.gov
(312) 353-6266

From: Mia, Marcia
Sent: Wednesday, April 17, 2019 8:41 AM
To: Ayres, Sara <Ayres.Sara@epa.gov>
Subject: OIAI

In the M2M rulemaking, are you outlining what constitutes legally and practically (or federally enforceable) area source limits? If so, can you give me some examples or point me to the language. Thanks. I need it for the oil and gas rule. They want to use state limits to get out of the NSPS.

Marcia B Mia
Air Branch
Office of Compliance
2227A WJCS
U.S. Environmental Protection Agency
202-564-7042

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