Message

From: Wortman, Eric [Wortman.Eric@epa.gov]
Sent: 12/10/2021 12:42:29 PM
To: Bird, Patrick [Bird.Patrick@epa.gov]
CC: Dain, Gregory [Dain.Greg@epa.gov]
Subject: RE: ERC Time of Use ?

Haha, I know, I'm sorry!

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Bird, Patrick <Bird.Patrick@epa.gov>
Sent: Friday, December 10, 2021 7:19 AM
To: Wortman, Eric <Wortman.Eric@epa.gov>
Cc: Dain, Gregory <Dain.Greg@epa.gov>
Subject: RE: ERC Time of Use ?

Ex. 5 Deliberative Process (DP)

Pat

From: Bird, Patrick
Sent: Thursday, December 9, 2021 11:24 AM
To: Wortman, Eric <Wortman.Eric@epa.gov>
Cc: Dain, Gregory <Dain.Greg@epa.gov>
Subject: RE: ERC Time of Use ?

Thanks for catching this. VW has a similar requirement:

The Permittee shall demonstrate that any NOx and VOC CERCs used for compliance are surplus, quantifiable, enforceable and permanent. The Permittee shall submit the demonstration to the EPA prior to the Operational Phase Start Date of the WDA facility. The demonstration shall include, at a minimum, 1) the source where the CERCs were generated; 2) the time period used to determine the CERCs; and 3) whether the CERCs have been adjusted to take into account the CAA and the Commonwealth's requirements in effect as of January 29, 2019 (the date VW's application was deemed complete).

Ex. 5 Deliberative Process (DP)

From: Wortman, Eric <Wortman.Eric@epa.gov>
Sent: Thursday, December 9, 2021 10:43 AM
To: Bird, Patrick <Bird.Patrick@epa.gov>
Cc: Dain, Gregory <Dain.Greg@epa.gov>
Subject: RE: ERC Time of Use ?

Ex. 5 Deliberative Process (DP)

1. The Permittee shall demonstrate that any NOx CERCs used for compliance are surplus, quantifiable, enforceable, and permanent. The Permittee shall submit the demonstration to the EPA prior to the Operational Phase Start Date. The demonstration shall include, at a minimum, 1) the source where the CERCs were generated; 2) the time period used to determine the CERCs; and 3) whether the CERCs have been adjusted to take into account the CAA and the Commonwealth's requirements in effect as of January 13, 2021 (**the date SFW's application was deemed complete**).

From: Bird, Patrick <Bird.Patrick@epa.gov>
Sent: Thursday, December 9, 2021 10:10 AM
To: Wortman, Eric <Wortman.Eric@epa.gov>
Subject: RE: ERC Time of Use ?

Thanks for keeping me in the loop.

Pat

From: Wortman, Eric <Wortman.Eric@epa.gov>
Sent: Thursday, December 9, 2021 9:48 AM
To: Bird, Patrick <Bird.Patrick@epa.gov>
Subject: FW: ERC Time of Use ?

FYI – latest exchange on the ERC adjustment issue….

From: Wortman, Eric
Sent: Thursday, December 9, 2021 8:39 AM
To: Yannayon, Laura <Yannayon.Laura@epa.gov>
Subject: RE: ERC Time of Use ?

Thanks Laura,

Ex. 5 Deliberative Process (DP)

Section 129(a)(1) of the Clean Air
Act Amendments of 1977 (Pub. L. 95-

95 (note under 42 U.S.C. 7502)) states
that the 1976 Ruling, as it may be
modified, shall remain in effect,
except that the baseline for determining
emission offset credit "shall be the
applicable implementation plan of the
State in effect at the time of application
for a permit * * The legislative
history indicates that this provision
was intended to eliminate the provision
in the 1976 Ruling that the baseline
was RACM where EPA had called
for a SIP revision. But this provision
was not intended to displace the provisions
under the 1976 Ruling to accommodate
special circumstances,
giving credit only for reductions below
the emissions allowed by existing requirements.
For the foregoing reasons, the ruling
is revised to eliminate the requirement
that the baseline be RACM where
EPA has called for SIP revisions.

Thanks for all your help,

Eric

From: Yannayon, Laura <Yannayon.Laura@epa.gov>
Sent: Wednesday, December 8, 2021 4:32 PM
To: Wortman, Eric <Wortman.Eric@epa.gov>
Subject: RE: ERC Time of Use ?

Ex. 5 Deliberative Process (DP)

Laura

Appendix S:

IV. Sources That Would Locate in a Designated Nonattainment Area

C. *Baseline for determining credit for emission and air quality offsets.* The baseline for determining credit for emission and air quality offsets will be the SIP emission limitations in effect at the time the application to construct or modify a source is filed. Thus, credit for emission offset purposes may be allowable for existing control that goes beyond that required by the SIP. Emission offsets generally should be made on a pounds per hour basis when all facilities involved in the emission offset calculations are operating at their maximum expected or allowed production rate. The reviewing agency should specify other averaging periods (e.g., tons per year) in addition to the

pounds per hour basis if necessary to carry out the intent of this Ruling. When offsets are calculated on a tons per year basis, the baseline emissions for existing sources providing the offsets should be calculated using the actual annual operating hours for the previous one or two year period (or other appropriate period if warranted by cyclical business conditions). Where the SIP requires certain hardware controls in lieu of an emission limitation (e.g., floating roof tanks for petroleum storage), baseline allowable emissions should be based on actual operating conditions for the previous one or two year period (*i.e.*, actual throughput and vapor pressures) in conjunction with the required hardware controls.

D. *Location of offsetting emissions.* The owner or operator of a new or modified major stationary source may comply with any offset requirement in effect under this Ruling for increased emissions of any air pollutant only by obtaining emissions reductions of such air pollutant from the same source or other sources in the same nonattainment area, except that the reviewing authority may allow the owner or operator of a source to obtain such emissions reductions in another nonattainment area if the conditions under paragraphs IV.D.1 and 2 of this Ruling are met.

1. The other area has an equal or higher nonattainment classification than the area in which the source is located.

2. Emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located.

Laura

From: Wortman, Eric <Wortman.Eric@epa.gov>
Sent: Wednesday, December 8, 2021 11:20 AM
To: Yannayon, Laura <Yannayon.Laura@epa.gov>; Beckham, Lisa <BECKHAM.LISA@EPA.GOV>
Cc: Bird, Patrick <Bird.Patrick@epa.gov>
Subject: RE: ERC Time of Use ?

Ex. 5 Deliberative Process (DP)

The first bullet in Section 16.12 of the EIP guidance seems to support this. Connecticut has a reciprocity agreement with New York in place.

From: Yannayon, Laura <Yannayon.Laura@epa.gov>
Sent: Wednesday, December 8, 2021 11:27 AM
To: Beckham, Lisa <BECKHAM.LISA@EPA.GOV>; Wortman, Eric <Wortman.Eric@epa.gov>
Cc: Bird, Patrick <Bird.Patrick@epa.gov>
Subject: RE: ERC Time of Use ?

Ex. 5 Deliberative Process (DP)

Laura

From: Beckham, Lisa <BECKHAM.LISA@EPA.GOV>
Sent: Wednesday, December 8, 2021 8:15 AM
To: Wortman, Eric <Wortman.Eric@epa.gov>; Yannayon, Laura <Yannayon.Laura@epa.gov>
Cc: Bird, Patrick <Bird.Patrick@epa.gov>
Subject: RE: ERC Time of Use ?

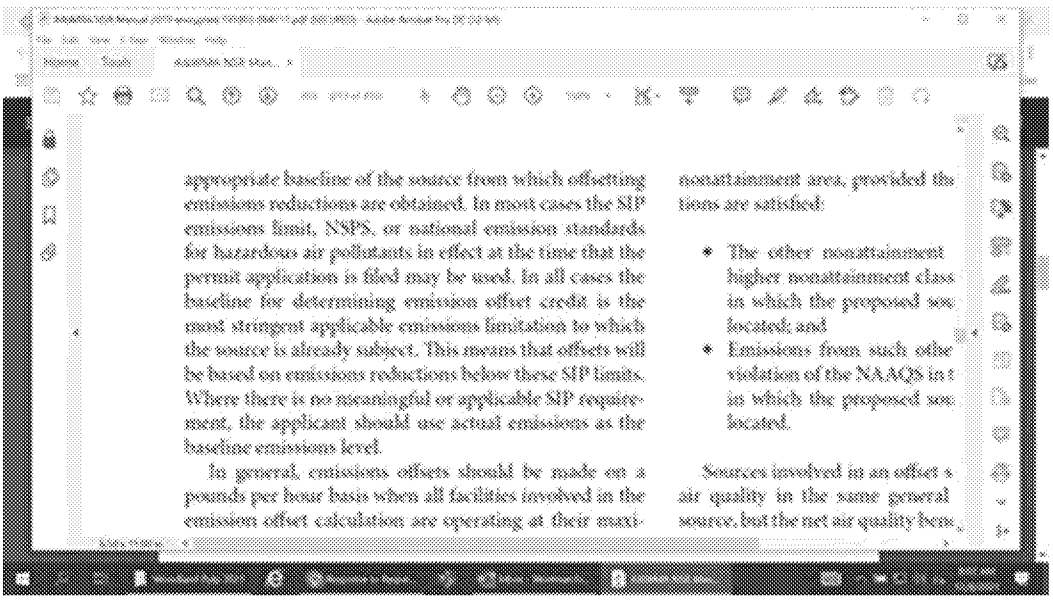
Maybe you could also cite CAA section 173(c)(2).

> (2**) Emission reductions otherwise required by this chapter shall not be creditable as emissions reductions for purposes of any such offset requirement.** Incidental emission reductions which are not otherwise required by this chapter shall be creditable as emission reductions for such purposes if such emission reductions meet the requirements of paragraph (1).

Ex. 5 Deliberative Process (DP)

From: Wortman, Eric <Wortman.Eric@epa.gov>
Sent: Wednesday, December 8, 2021 5:33 AM
To: Yannayon, Laura <Yannayon.Laura@epa.gov>; Beckham, Lisa <BECKHAM.LISA@EPA.GOV>
Cc: Bird, Patrick <Bird.Patrick@epa.gov>
Subject: RE: ERC Time of Use ?

Ex. 5 Deliberative Process (DP)



appropriate baseline of the source from which offsetting emissions reductions are obtained. In most cases the SIP emissions limit, NSPS, or national emission standards for hazardous air pollutants in effect at the time that the permit application is filed may be used. In all cases the baseline for determining emission offset credit is the most stringent applicable emissions limitation to which the source is already subject. This means that offsets will be based on emissions reductions below these SIP limits. Where there is no meaningful or applicable SIP requirement, the applicant should use actual emissions as the baseline emissions level.

In general, emissions offsets should be made on a pounds per hour basis when all facilities involved in the emission offset calculation are operating at their maxi-

nonattainment area, provided the tions are satisfied:

* The other nonattainment higher nonattainment class in which the proposed sou located; and
* Emissions from such othe violation of the NAAQS in t in which the proposed sou located.

Sources involved in an offset s air quality in the same general source, but the net air quality bene

From: Yannayon, Laura <Yannayon.Laura@epa.gov>
Sent: Tuesday, December 7, 2021 3:57 PM
To: Wortman, Eric <Wortman.Eric@epa.gov>; Beckham, Lisa <BECKHAM.LISA@EPA.GOV>

Cc: Bird, Patrick <Bird.Patrick@epa.gov>
Subject: RE: ERC Time of Use ?

Hi Eric,

Ex. 5 Deliberative Process (DP)

Laura

From: Wortman, Eric <Wortman.Eric@epa.gov>
Sent: Tuesday, December 7, 2021 7:37 AM
To: Yannayon, Laura <Yannayon.Laura@epa.gov>; Beckham, Lisa <BECKHAM.LISA@EPA.GOV>
Cc: Bird, Patrick <Bird.Patrick@epa.gov>
Subject: ERC Time of Use ?

Hi Laura & Lisa,

Ex. 5 Deliberative Process (DP)

Do you have any experience or input on this?

Thanks,

Eric

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Boston, Massachusetts 02109
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