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Sent: 3/14/2018 5:09:50 PM
To: Tyler White [twhite@kentuckycoal.com]
CC: RNolan@nma.org
Subject: FYI on yesterday's announcement

Guidance Memo from Bill Wehrum: Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program

Announcement: ANTICIPATED Tuesday March 13

Key points:

- This memorandum provides EPA's interpretation of the existing New Source Review (NSR) regulations with respect to the accounting of emissions changes from a project under Step 1 of the NSR applicability process (the determination of whether a project will result in a significant emissions increase).
- This memorandum provides EPA's interpretation that the current NSR regulations already allow for emissions decreases as well as increases to be considered at Step 1 of the NSR applicability process, better capturing real world impacts of proposed projects.
- Clarifying this interpretation will reduce confusion and paperwork burdens, spurring investment in new, environmentally beneficial updates at covered facilities.
- EPA's interpretation is grounded in the principle that the plain language of the Clean Air Act indicates that Congress intended to apply NSR to changes that increase actual emissions.

Background:

In general, preconstruction permits for sources in attainment areas and for other pollutants regulated under the major source program are called prevention of significant deterioration (PSD) permits, while such permits for major sources emitting nonattainment pollutants and located in nonattainment areas are referred to as nonattainment NSR (NNSR) permits.

Questions and Answers

If the regulations allow this, why does EPA need to clarify that emissions decreases should be considered?

Since 2006, EPA has issued conflicting determinations of whether its regulations allow for the consideration of emissions decreases under Step 1 of the applicability process. EPA has reassessed this and is clarifying EPA's current interpretation.

How can a new project not increase emissions?

A project can involve increases or decreases in emissions or both on a pollutant and emissions unit-specific basis. For example, a project may involve the installation of more efficient process equipment leading to a decrease in emissions from certain units. Or, a project may involve the installation of pollution control equipment that results in lower emissions. Project emissions accounting under Step 1 of the NSR applicability process involves determining whether the aggregate increase in emissions from a project, including increases and decreases as applicable, is significant.

Why has EPA changed its interpretation of project netting since its 2010 letter to HOVENSA LLC?

Because EPA has in the past issued conflicting determinations on this matter, EPA has reassessed its interpretation of the NSR regulatory language and has determined that the regulatory interpretation contained in the 2010 HOVENSA letter is not supported by the rules.

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