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Subject: NOx RACT
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Hi Wendy

Corrine and I might have a good addition to the proposed Section 22e.

We couldn't find anything that would help a source that is scheduled to perform its emission test (just prior to due date) and the source has a tragic failure and can't operate/test. When the source is able to operate and does startup months later, would it be out of compliance? Also, depending upon the severity of the failure, the source might not be able to test immediately upon startup.

Initially we were curious about performing tune-ups for the Boiler MACT, which requires the boiler to be operating but also requires a shutdown of the boiler. Although slightly off-track of our quest, we were looking at 40 CFR Part 63 Subpart DDDDD & Subpart A - General Provision found relief for source in trouble due to unforeseen circumstances. The regulation also gives a source reasonable amount of time to get back to normal operations. When we looked at the proposed Section 22, we didn't see anything that could cleanly address circumstances such as described by the "force majeure" definition presented below.

§63.7(a)(4)(ii) ".....The performance test shall be conducted as soon as practicable after the force majeure occurs."

§63.2 definitions:

"Force majeure means, for purposes of § 63.7, an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility."

If you have any questions please call or email me.

Have a good weekend

Thanks

Steve

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