



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 23 2003

Ms. Linda Korn Levy
Assistant Secretary
Office of Environmental Services
Louisiana Department of Environmental Quality
P. O. Box 4313
Baton Rouge, LA 70821-4313

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Re: Entergy Michoud Power Plant Repowering Air Permit

Dear Ms. Levy:

I am writing to respond to your concerns regarding the Permit Modification Application for the Repowering of Unit 2 at Entergy's Michoud plant.

As initially proposed, Entergy would have attempted to permit its project – construction of a combined cycle electric generating unit – as two separate and distinct projects, thereby allowing construction of such a unit without the controls that are normally considered appropriate for new units. We believe that such activity is unlawful “circumvention” of PSD requirements because the project clearly contemplates construction of a combined cycle unit.

After discussions with our office, the company now proposes to “net” the entire project out of PSD by obtaining federally enforceable limits that will require necessary emission reductions prior to the commencement of each phase. The Louisiana State Implementation Plan (SIP) incorporates the federal PSD regulations, which state that, for “netting” purposes, “an increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between (a) The date five years before construction on the particular change commences; and (b) the date that the increase from the particular change *occurs*.” 40 C.F.R. 52.21(b)(3)(ii) (*Emphasis added*).

Entergy is proposing to accept federally enforceable emission limits which would ensure that future emissions are at all times less than the average of the annual actual emissions for the two-year period immediately preceding commencement of construction of phase I. The limits would be enforceable prior to construction of the first phase of the project (i.e., the simple cycle turbine) and would require that reductions necessary to “net” each phase of the project would occur before commencement of operation of each phase (i.e, sufficient reductions would occur before operation of the simple cycle turbine, followed by additional reductions before operation of the combine cycle turbine). The limits would also set forth the means for generating the phases of emissions reductions (e.g., limited operation of Unit 2 boiler B during simple cycle operations, followed by the complete shutdown of Unit 2 boiler before combined cycle

operations commence) and require that these reductions remain permanent.

You have asked whether the fact that the emission limitation phases in the netting reductions means that the reductions do not "occur" until after the increase from the unit occurs. We believe Louisiana can interpret its SIP in a manner that does not end in this result. It is EPA's opinion that our regulations at 40 C.F.R. §52.21, and hence Louisiana's SIP, can be read to allow phased netting for phased construction projects. In other words, the emission reductions necessary to net out each phase of the project must occur before the emission increase from each phase occurs, but not all of the reductions required to net out the entire construction project have to occur before the emission increase from the first phase occurs. In addition, before construction on any phase of the project commences, the source must have practically and legally enforceable limitations in a permit or other mechanism that sets forth how the reductions for each phase of the project will be generated (e.g., by shutting down unit X, limiting fuel at unit Y). In this case, Entergy proposes to reduce emissions initially via operational limitations on both the simple cycle combustion turbine and on the Unit 2 boiler. Once the combined cycle conversion is completed, Entergy would generate reductions for this phase of the project by shutting down Unit 2, resulting in an overall decrease in NOx emissions that should be more than enough to offset the projected NOx emissions from the combined cycle turbine.

In this letter, we are responding to Louisiana's questions based on how we believe such a request would be resolved under the federal PSD rules in Title 40 Code of Federal Regulations and under EPA policies. Our response does not represent how Louisiana must interpret the PSD requirements that EPA has approved into the Louisiana SIP, nor does it represent final agency action. Instead, this letter provides guidance for you to consider in your role as the PSD permitting authority.

If you have any further questions on this matter, please feel free to call Loan Nguyen of my staff at (202) 564-4041.

Sincerely,



Bruce C. Buckheit

Director

Air Enforcement Division

cc: Bill Hamett, OAQPS