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The MPCA plans to issue rules in late December 2010 to implement new permit requirements from US EPA. EPA has now added greenhouse gases (GHGs) to permitting regulations through new federal rules finalized in May, 2010. As a result, the state is now required to incorporate these changes into its air quality rules.

The MPCA is using the exempt rulemaking process under Minn. Stat. § 14.388 to implement these rule changes. The statute allows an expedited process if agencies need to comply with a requirement in federal law. The exempt rulemaking process is intended to meet the effective date of the federal permit rule, January 2, 2011. Because of the administrative procedures used in the exempt rulemaking process, the MPCA will likely not know if the rule as proposed is approved until the last week of December 2010. Once the rules are approved, there would not be enough time to notify all regulated parties in a paper mailing prior to the rules taking affect; therefore, based on the proposed rule changes, we are using e-mail to get the word out to as many facilities as possible. If the rule is NOT approved, or changes significantly from proposal, the MPCA will contact you in this same manner to let you know the outcome of the final rule.

As a facility with an air emissions permit, these rule changes will directly affect your facility. You will need to take action very soon. The following information is provided to help you understand what changes will be coming.

Based on the proposed rule, the main changes that may affect you are as follows.

- GHGs will be regulated pollutants for determining whether or not you need an air permit;
- Some insignificant activities will be revised and your current ones may no longer qualify as insignificant; and
- you will be required to calculate GHG emissions and take action as described below (see draft changes to Minn. R. 7007.0150).

For information on the rulemaking process as well as a copy of the draft rule changes, see [Air Quality Rules: Possible Rule to Adopt Federal Air Permit Thresholds for Greenhouse Gases](#).

Potential to Emit and Operating Permit Status

By January 2, 2011, you must calculate your current potential to emit (PTE) GHG. Take into account any currently-enforceable restrictions on your facility (Minn. R. 7007.0150, subp. 1(E)). If you determine that your GHG PTE is less than 100,000 tpy CO₂e, you must keep records of the calculation until January 2, 2016.

If you have a State Permit: If your GHG PTE is equal to or greater than 100,000 tpy CO₂e, you will need to either apply for a Part 70 operating permit or request revisions to your state operating permit. Submit a new application no later than June 30, 2012.

If you have a Part 70 Permit: If your GHG PTE is equal to or greater than 100,000 tpy CO₂e, you must notify the MPCA by June 30, 2011 of this determination. Send this notification to:

Air Quality Compliance Tracking Coordinator
Minnesota Pollution Control Agency
520 Lafayette Road North

St Paul, MN 55155

If you have a permit as a minor source under NSR/PSD (can be either a State or Part 70 Permit): If your GHG PTE is equal to or greater than 100,000 tpy CO₂e, as of July 1, 2011, you will be considered an existing major source for NSR due to GHGs. If you wish to remain minor, submit either an application for a major amendment to your permit to establish limits to avoid being major for GHGs or apply for a different minor source permit such as a Capped Permit. Submit a new application no later than June 30, 2012.

Until such time as that amendment/permit is issued, your facility will be considered an existing major source under Part 70 and NSR. Any modifications to your facility must be analyzed based on your facility being major for those programs (e.g., using form CH-04a, not CH-04b).

Pending Modifications

Starting January 2, 2011: Permits that were issued before 1/2/2011 and that authorize changes may not have addressed GHGs as required by the new federal rules. Between January 2, 2011 and June 30, 2012, prior to starting construction of any modification authorized before January 2, 2011, you must assess whether or not the modification would cause a significant net emissions increase under 40 CFR 52.21(b)(3), (b)(23), and b(49)(iii)-(v). If the modification would cause such an increase, you must apply for and obtain the appropriate permit prior to beginning actual construction. See revised Minn. R. 7007.0150, subp. 1(B) for more details.

Starting July 1, 2011: If your current permit authorizes any modifications or is in some way a flexible permit with limits to avoid NSR (e.g., PreCap, FlexCap, etc.), and you did not begin actual construction of the modification prior to July 1, 2011, then you cannot begin actual construction of the modification until you calculate the GHG PTE of your facility and the proposed modification. See revised Minn. R. 7007.0150, subp. 1(C) for information on the types of analyses, deadlines for action, and record retention requirements.

If you determine that the pending modification meets or exceeds the GHG threshold and you decide NOT to proceed with the modification, you must submit an application to the MPCA to revise your current permit, as necessary, by December 28, 2011 (See revised Minn. R. 7007.0150, subp. 1(D)).

Insignificant Activities

Several insignificant activities in Minn. R. 7007.1300 will be revised slightly under this rule. You must determine if any equipment or processes which were insignificant in your prior permit or permit applications will no longer qualify under the revised rules. If this is the case, you need to submit a minor amendment application to the MPCA to incorporate the equipment into your permit. The activities that have changed are: subp. 2(A)(3) and 2(G)(1); subp. 3(A), (B)(2), and 3(I); subp. 4.

Pending Applications

Some facilities have submitted air permit application to the MPCA where those applications are still pending (i.e., the permit or amendment has not yet been issued). If you have an application pending with the MPCA, and based on your calculations described above, you determine that changes are needed to your pending application (e.g., you are now major so the citations used for proposed limits are incorrect, you need additional limits or recordkeeping for GHGs, etc.), you have a duty to supplement that pending application as detailed in Minn. R. 7007.0600, subp. 2.

For More Information

All permit application forms are available on the [Air Permit Forms](#) page. Form [EC-17](#) provides information about calculating GHG emissions.

If you have questions about the status of the MPCA's rulemaking process, please see the MPCA's [rulemaking webpage](#) for the appropriate rule contact. If you have any questions about this message and are currently working on a pending air permit with the MPCA, contact your assigned permit staff. Otherwise, direct questions regarding NSR issues to Dick Cordes, 651-757-2291, or richard.cordes@state.mn.us, and all remaining questions regarding this message to Peggy Bartz, 651-757-2213, or margaret.bartz@state.mn.us.