

***This email message was sent from a notification-only e-mail account. Please do not reply to this message. You can find MPCA contacts listed at the end of the message.***

The Minnesota Pollution Control Agency (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 effect; 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 a different 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 CO<sub>2</sub>e, you must keep records of the calculation until January 2, 2016.

The Fiberglass General Permit (General Permit) was constructed to limit all emissions to less than New Source Review (NSR) thresholds; GHG was not a pollutant under the Clean Air Act when the General Permit was issued. With this new pollutant, you may be a major source of GHG emissions under the NSR program. As such, you must evaluate the GHG PTE of your facility. If your GHG PTE is equal to or greater than 100,000 tpy CO<sub>2</sub>e, 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 your GHG PTE is equal to or greater than 100,000 tpy CO<sub>2</sub>e, 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 an application for a Part 70 permit with limits to avoid being major for GHG. Submit a new application no later than June 30, 2012. Until such time as that 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. The MPCA may reopen the General Permit to address limits to avoid GHG emissions if warranted for this sector.

### **Pending Modifications**

If you determined that the PTE of your facility exceeds 100,000 tons per year CO<sub>2</sub>e, then the following apply to you. If the PTE of your facility is less than 100,000 tons per year CO<sub>2</sub>e, then you may ignore the following paragraphs below and continue to make changes as allowed by your General Permit as long as you evaluate every change that you will make.

Because you hold a General Permit, you are allowed to make certain changes to your facility. Again, the General Permit was constructed to limit all emissions to less than NSR thresholds; GHG was not a pollutant under the Clean Air Act when the General Permit was issued. With this new pollutant, you may be a major source of GHG emissions under the NSR program. As such, you must evaluate the GHG PTE of your facility as described above. In addition, the flexibility allowed by the permit has been constrained. You may no longer make changes without evaluating the GHG PTE of the modification as described below.

*Starting January 2, 2011:* The General Permit that was issued for your facility did not address 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 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.

### **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 current permit will no longer qualify under the revised rules. If this is the case, you need to update your equipment list and verify that you continue to qualify for the General 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.

### **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. Direct questions regarding NSR issues to Dick

Cordes, 651-757-2291, or [richard.cordes@state.mn.us](mailto:richard.cordes@state.mn.us), and all remaining questions regarding this message to Amrill Okonkwo, 651-757-2623, or [amrill.okonkwo@state.mn.us](mailto:amrill.okonkwo@state.mn.us).