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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 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 a Non-Metallic Mineral Processing General Permit (General Permit), these proposed rule changes 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 of the insignificant activities will be revised such that some things may no longer qualify as insignificant; and
- You will be required to calculate GHG emissions and take action as described below.

For more information about these changes, continue reading below. For more 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 tons per year (tpy) of carbon dioxide equivalent or CO<sub>2</sub>e, you must keep records of the calculations until January 2, 2016. You can still keep your General Permit.

The General Permit was written to limit all emissions to less than New Source Review (NSR) thresholds; therefore GHG was not a pollutant under the Clean Air Act when the General Permit was issued. You may be a major source of GHG emissions under the NSR program with this new pollutant. 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 apply for a different kind of permit by the deadlines listed below.

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 State 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 modification to your facility must be analyzed based on your facility being major for those programs.

### **Pending Modifications**

If the PTE of your facility is less than 100,000 tpy CO<sub>2</sub>e, then you may continue to make changes as allowed by your General Permit. If you make any changes, you should determine if you still qualify for the General Permit. Always re-evaluate your changes and calculate your GHG PTE emissions. If you no longer qualify, you will need to apply for a different kind of permit. Deadlines are listed below.

If you determined that the PTE of your facility exceeds 100,000 tpy CO<sub>2</sub>e, then the following apply to you.

*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, deadline 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 General Permit will no longer qualify under the revised rules. If this is the case, you need to update the 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 more 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. For information about the General Permit; contact Nathan Grand, 651-757-2166, or [nathan.grand@state.mn.us](mailto:nathan.grand@state.mn.us).

*Small businesses that are independently owned and have less than 100 employees can call the [Small Business Environmental Assistance Program](#) at 651-282-6143 or 800-657-3938.*