Minnesota Pollution Control Agency

Federal Greenhouse Gas "Tailoring" Rule: Impacts on Minnesota's Air Permit Program

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Greenhouse gases (GHGs) and air emission permits

This fact sheet provides information about new federal regulations on GHGs that will affect air permits.

In the past, GHGs were not regulated pollutants under the federal Clean Air Act. That changed in 2007. As the result of a lawsuit, the United States Supreme Court found that GHGs, including carbon dioxide (CO_2), are air pollutants covered by the Clean Air Act.

The Supreme Court also told the U.S. Environmental Protection Agency (EPA) to decide whether or not GHGs from vehicles could harm public health or welfare. The EPA decided they did and now is implementing rules to reduce GHGs from vehicles.

After the vehicle GHG rules are in effect, GHGs must be regulated under other Clean Air Act programs, too. The two permit rules affected are the Part 70 (also known as Title V) program and the Prevention of Significant Deterioration (PSD) program. Permit rule changes will take effect in January 2011. For the first six months under these new requirements, only projects that were already subject to PSD or Part 70 will be affected. Starting in July 2011, any facilities with GHG emissions above the thresholds will have to include GHGs in their permits.

Does regulating GHGs cause a problem in Minnesota?

The fact the GHGs would be regulated pollutants means that Minnesota would have to issue permits for facilities that emit them. Most GHGs come from burning fuel; some come from other industrial or agricultural processes.

Under Minnesota's current permit rules, a company has to apply for a Part 70 permit if potential air emissions exceed 100 tons per year of a regulated pollutant. A fairly small furnace or boiler – such as in a 3,500 square foot house, for example – could exceed this threshold. Many buildings that did not need a permit before would need one. Businesses that currently have registration permits, capped or minor permits for PSD or Part 70, or that take advantage of the Insignificant Activities list may no longer be eligible to do so.

What the EPA has done about permit thresholds for GHGs

A permit threshold of 100 tons per year would affect thousands of sources currently not regulated in Minnesota. The EPA acknowledges that regulating GHGs at 100 tons per year is not practical. Therefore, the EPA has promulgated a rule defining a different threshold for GHGs.

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To focus the rules on larger facilities, the Part 70 permit threshold would change to 100,000 tons per year, CO_2-equivalent (CO_2-e). The EPA calls this the Tailoring Rule, as the permit thresholds would be tailored to exempt facilities with lower emissions. The EPA has also set a similar threshold for the PSD program, along with thresholds for modifications under PSD of 75,000 tons per year, CO_2-e.

What does Minnesota have to do to implement the tailoring rule?

Minnesota is delegated by the EPA to run the PSD program within the state. So, if the EPA changes something, that rule change takes effect automatically here.

On the other hand, the Part 70 program is implemented in Minnesota's rules by referring to the Clean Air Act. Therefore, permits for GHGs would still be required if potential emissions are 100 tons per year or more. The MPCA will revise Minnesota's rules to avoid the unintended result of regulating sources below federal thresholds.

To meet EPA's effective date of January 2, 2011, the MPCA will conduct exempt rulemaking in 2010. This process allows agencies to quickly adopt changes to meet federal requirements. However, rules adopted in this way are only good for two years. The MPCA will conduct normal rulemaking to make the changes permanent.

Is there anything else to consider?

Facilities affected by GHG regulations might also consider operational changes. Energy efficiency projects, combustion equipment upgrades, heat recapture or other improvements may reduce combustion emissions below thresholds.

Certain chemicals with a high-global warming potential – e.g., fluorinated chemicals – may also result in potential emissions that exceed the proposed permit threshold. These chemicals are used for electronics, precision cleaning, metal casting, refrigeration or fire suppression. Material handling, leak repair and material substitution should be considered.

Where can I go for more information?

- EPA Web sites
  - Climate Change: www.epa.gov/climatechange/index.html
  - Endangerment: www.epa.gov/climatechange/endangerment.html
  - Tailoring rule: www.epa.gov/nsr/actions.html
- Energy Star: www.energystar.gov
- National Association of Clean Air Agencies: www.4cleanair.org
- Energy Smart: www.mnenergysmart.com
- Minnesota Technical Assistance Program: www.mntap.umn.edu
- MPCA report: Technical Evaluation of the Emissions and Control Costs of High Global Warming Potential Gases: www.pca.state.mn.us/publications/lrp-gen-3asy09.pdf