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GHG Beyond Reporting

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Objectives

- Background of GHG rulemaking
- Significance
- Tailoring Rule
- Implications

Background

- On April 1, 2007 the US Supreme Court determined Greenhouse Gases (GHG), collectively including 6 specific GHG, were *air pollutants* which are to be addressed under the Clean Air Act (CAA)
- What does it mean to be an *air pollutant* regulated by the CAA?
- Many don't really understand the significance

Background

- EPA was required to determine whether or not:
 - GHGs may reasonably be anticipated to endanger public health or welfare, or
 - whether the science is too uncertain to make a reasoned decision
- EPA took the first step...

Background

- Endangerment Finding Published – December 7, 2009
 - Stated that GHGs were a threat to human health and env., and
 - **Emissions from light duty engines contribute to GHG**
- This finding allows EPA to promulgate regulations of GHGs from light duty vehicles
- FINAL Light Duty Vehicle rules were published on April 1, 2010 and will become EFFECTIVE January 2, 2011

Background

- Wrestling with Stationary Sources
- March 29, 2010 – Reconsideration of “Johnson Memo” published:
(<http://www.epa.gov/nsr/guidance.html>)
- Confirmed that a “new pollutant” becomes covered under the PSD program when a new rule regulating GHG takes effect
- January 2, 2011

Significance

- January 2011:
 - Each facility with more than **250 TPY** of GHGs will be a major source under PSD
 - Title V – **100 TPY**
 - Major Modification threshold = **0 TPY**
- Hence... “Tailoring Rule” because EPA believes these levels are “*Absurd*”
- Everyone say – “Duh”

Tailoring

- How does USEPA fit GHGs into the Clean Air Act?
- USEPA initially proposed...
 - Major source = 25,000 TPY
 - Major Modification = 10,000 TPY
- Is this high enough for your affected industry?
- Understanding how the thresholds relate to facilities

Tailoring

- GHG reporting threshold (Methane Generation) of 25,000 MTCO₂e
- ~260 scfm of LFG recovery = Major Source
- Many screamed for higher thresholds
- USEPA later indicated they may increase to ~75,000
- ~800 scfm of LFG recovery = Major Source
- However, PSD allows facilities to take federally mandated controls into consideration when determining PTE...

Tailoring

- What happens after tailoring rule passed
- States still have to pass SIP revisions
- This is a major dilemma
- SIP revisions...How, when, etc.

Tailoring “*TODAY*”

USEPA issued final Tailoring Rule May 13, 2010

- Established first two steps “Phase-In” process:
 - Step 1: January 2, 2011 – June 30, 2011
 - GHGs considered IF PSD/Title V triggered by non-GHG pollutants or “PSD/Title V Anyway “
 - Step 2: July 1, 2011 – June 30, 2013
 - PSD/Title V triggered by GHGs alone

Tailoring “*TODAY*”

- Established “temporary” GHG thresholds:
 - Major Source = 100,000 TPY CO₂e
AND.....100/250 TPG GHG mass basis
 - Major Modification = 75,000 TPY CO₂e
AND...any increase >0 TPY GHG mass basis

Tailoring “*TODAY*”

Established that.....

- Emissions be determined in English units and NOT metric units as in GHG Reporting Rule.\
- Emissions thresholds based upon Potential – to- Emit (PTE), consistent with existing PSD and Title V programs.
 - Biomass fuels/biogenic CO₂
 - Fugitive emissions
 - Pollution control projects

Tailoring “*TODAY*”

- Established deadline for STEP 3 rule making..
No later than JULY 1, 2013 USEPA will promulgate:

Potentially LOWER thresholds for GHGs.

Delay for permitting of small sources (<50,000 TPY CO₂e) until April 2016.

Include future GHG permit streamlining.

Tailoring “*TODAY*”

- Established April 2015 deadline for completion of GHG permitting study:
 - Determine regulatory burdens if GHG program applied to smaller sources (< 50,000 TPY CO₂e).
 - Complete next step in phase-in rule making by April 2016 to address CAA permitting to these sources – possible permanent exemption levels??

Tailoring “*TODAY*”

USEPA to work with states to implement Tailoring Rule.....

- If state rule changes cannot be made by January 2, 2011 USEPA will “take action”
- USEPA to develop supporting guidance by end of 2010, and
- USEPA will actively work with states on BACT evaluations for GHGs.

Tailoring “*TODAY*”

What about pending permit applications
submitted before January 2011?.....

**ALL PERMITS ISSUED AFTER THE STEP 1
DEADLINE MUST ADDRESS GHGS!!**

Implications

- Many more Title V facilities
- Many more PSD major facilities
- Increased permitting backlog in states
- BACT?
- Additional permitting costs to affected facilities.

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Implications

STEP 3 NOT THE LAST STEP!!!!

USEPA has clearly stated that ...

“While committing to future action, we do not decide in this rule when the phase-in process will ultimately end, or at what threshold level, because all that depends on uncertain variables We may continue the phase-in process with further rulemaking(s) after 2016.”

Questions?