

# EPA GHG Proposed Rules

Two Proposed Rules for Regulating  
GHG Emissions via Title V and PSD Permits

October 2009

# Proposed Rules

- EPA issued two proposed rulemakings that will lay the groundwork for limiting GHG emissions under existing Clean Air Act permitting authority.

# First Proposed Rule

- The first proposed rulemaking seeks formal reconsideration of the policy set forth by a memo issued on December 18, 2008 by former Administrator Steven Johnson.
- That memo stated that GHG emissions are not “regulated pollutants” under the Clean Air Act until they are subject to an emission limit.

# Second Proposed Rule

- EPA “Tailoring” Rule Lays out EPA’s approach to address issues raised in ANPR concerning application of PSD and Title V programs if GHG become “subject to regulation.”
  - Extremely large numbers of new sources/modifications potentially subject.
  - Current permitting approaches unworkable for large numbers of new kinds of smaller sources and modifications.
- EPA proposes raising the statutory emission thresholds to levels that the agency deems more appropriate for GHG for at least six years.
- These thresholds are consistent with the levels triggering reporting under the Mandatory Reporting of Greenhouse Gasses rule, which requires monitoring beginning 2010.

# Johnson Memorandum

- The Johnson Memorandum questioned whether recordkeeping requirements alone trigger the PSD program, including existing recordkeeping requirements for carbon dioxide.
- The Johnson Memorandum concluded that PSD applies to pollutants that are subject to emissions control requirements and that pollutants subject only to monitoring or reporting requirements, such as CO<sub>2</sub>, do not trigger PSD.

# EPA is considering the following five policies for regulating GHG

1. EPA's Preferred Option would be a rule requiring control of emissions of a pollutant under a national rule.
2. Inclusion of regulatory requirements for a pollutant in an EPA approved State Implementation Plan
3. An EPA rule requiring monitoring or reporting of emissions of a pollutant
4. An "Endangerment Finding" for a pollutant under the Clean Air Act
5. EPA's granting of a Clean Air Act section 209 waiver, like the "California Waiver."

# To Trigger PSD

- First, EPA will have to issue regulations for GHG emissions from mobile sources
- EPA is expected to issue those mobile source regulations no later than March 2010.
- Once issued then PSD will apply to GHG emissions.

# The Tailoring Rule

- The Tailoring Rule would regulate the same pollutants that are subject to reporting under the final Mandatory Reporting Rule.
- These pollutants are:
  - 1. Carbon dioxide (CO<sub>2</sub>)
  - 2. Methane (CH<sub>4</sub>)
  - 3. Nitrous oxide (N<sub>2</sub>O)
  - 4. Hydrofluorocarbons (HFCs)
  - 5. Perfluorocarbons (PFCs)
  - 6. Sulfur hexafluoride (SF<sub>6</sub>)

# Proposed Permitting Thresholds

- The rule does not propose changes to the Title V or PSD permitting programs in terms of regulatory structure.
- The proposal is to establish, for a period of at least six years, higher emission thresholds for which a Title V or PSD permits would be required for GHG emissions.

# Proposed Permitting Thresholds

- 25,000 tons per year CO<sub>2</sub>e as the threshold at which a Title V permit would be required for existing sources.
  - This is the same threshold at which reporting is required under the Mandatory Reporting Rule for most sources.
  - The statutory threshold for all other pollutants is 100 tons per year.
- 25,000 tons per year CO<sub>2</sub>e as the threshold at which a PSD permit would be required.
  - The permitting threshold for major sources of conventional pollutants under the PSD program is 100 tons for certain listed sources or 250 tons per year for all other sources.

# PSD

- Under the proposed emissions thresholds, EPA estimates that 400 new sources and modifications would be subject to PSD review each year for GHG emissions.
- Less than 100 of these would be newly subject to PSD.

# Operating Permits Program

- In total, approximately 14,000 large sources would need to obtain operating permits for GHG emissions under the operating permits program.
- About 3,000 of these sources would be newly subject to CAA operating permit requirements as a result of this action.
- The majority of these sources are expected to be municipal solid waste landfills.

# Municipal Solid Waste Landfills

- The second largest source of human-related methane emissions in the United States, accounting for approximately 23 percent of these emissions in 2007.
- Landfill methane, a powerful greenhouse gas, can be captured, converted, and used as an energy source, reducing emissions and providing an important renewable energy source.

# Future Permitting Thresholds

- EPA is also requesting comments for a significance threshold for triggering PSD at existing major sources.
- The agency proposed a range between 10,000 and 25,000 tons per year CO<sub>2</sub>e.
- The higher thresholds would apply for a period of at least six years, and the emission limits for purposes of the Title V permit program would be phased in for existing sources over a five-year period.
- Facilities with existing Title V operating permits would include estimated CO<sub>2</sub>e emissions with their permit renewal application.
  - The CO<sub>2</sub>e data could be the same as that used to comply with the Mandatory Reporting Rule.