

EPA Regulation of Greenhouse Gases – Tailoring Step 3 & Utility NSPS for GHGs

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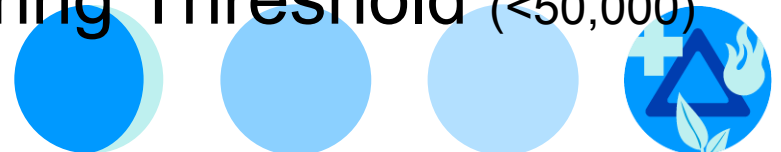
The Procter & Gamble Company



EPA Plans to Increase GHG Permitting

Hard-wired into Tailoring Rule

- 6/3/10 – Tailoring Rule Final (100,000 Threshold)
 - Phase 1 (1/2/11)
 - Phase 2 (7/1/11)
- 7/1/2012 – Final Rule to Lower Tailoring Thresholds:
 - 7/1/2013 - lower thresholds become effective (not <50,000 TPY)
- 4/30/2015 – EPA Burden Study complete & Proposal
- 4/30/2016 – Final Rule lowering Threshold (<50,000)

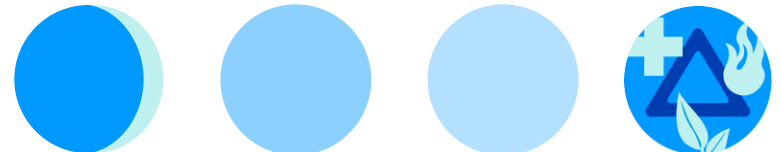


Current GHG Rules/Actions

Tailoring Rule Step 3

- To Establish applicability thresholds - July 2013 to April 2016
- Rule must be completed by July 2012
- Levels could stay at current levels or go as low as 50,000 tons, depending on an assessment of the manageability of GHG permitting

What about EPA's streamlining techniques (general permits, presumptive BACT), Title V program revisions to address GHGs??



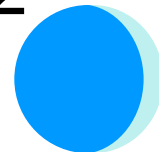
Step 3 Tailoring Proposal

Published 3 8 2012

- EPA proposes to keep threshold at 100,000 TPY until Step 4.
- EPA also proposes two “streamlining” approaches to “improve” the administration of GHG PSD and Title V permitting programs:
 - Addresses implementation of GHG PALs
 - Creates the regulatory authority for EPA to issue synthetic minor limitations for GHGs in areas subject to a GHG FIP.

Comments were due April 20, 2012

FINAL RULE IS DUE 7 1 2012



Evaluation of Threshold Changes & Impact

• Current Level – 100,000 TPY- 67% of GHG emissions

- 552 new major sources, 5326 covered facilities
- 90,000 TPY
 - 739 new major sources, 5756 covered facilities
- 80,000 TPY
 - 1009 new major sources, 6298 covered facilities
- 75,000 TPY
 - 1116 new major sources, 6441 covered facilities
- 60,000 TPY – 67% GHG emissions
 - 1503 new major sources, 7561 covered facilities
- 50,000 TPY – 70% GHG emissions
 - 3539 new major sources, 9980 covered facilities



EPA Proposed “Streamlining” GHG PALs for “GHG-Only” Sources

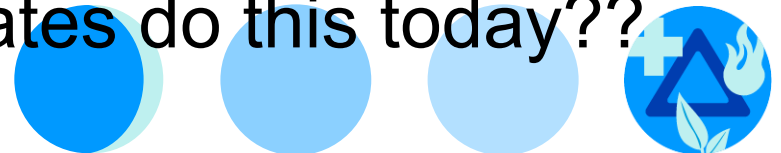
- “GHG Only” source
 - PTE $\geq 100/250$ TPY GHG + 100,000 TPY CO₂e
 - PTE < Major source thresholds for other pollutants
 - I would say it’s a source that is major only for GHG, but
 - EPA says **PTE $\geq 100/250$ TPY GHG makes it major** (“but for Tailoring rule”)
- PAL Alternatives:
 - Major Source Opt-in Approach
 - Give GHG-only sources to become existing major stationary sources & “thus receive PALs for GHGs and any other pollutant emitted by the source”
 - Minor Source Approach
 - A GHG-only source would remain a minor source. Only GHG PAL allowed.
 - All PALS are “actual PALS” based on actual emissions + 75,000 increase
 - ACTUALS BASED PALS must give up capacity – difference between permitted emissions and actual emissions but take only the allowed increase for 10 years then roll the dice.



Other “Streamlining” Proposed

Federal Synthetic Minor Source Permitting Authority for GHGs

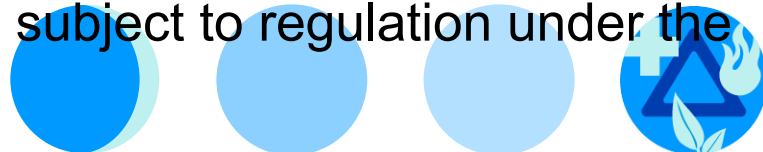
- Synthetic Minor Permits used to avoid PSD Major source/major modification or Title V applicability.
- Done by states today.
- Concern is that EPA doesn’t have authority for minor source permitting in areas subject to GHG FIP and Indian Country
 - EPA proposes to create synthetic minor permit authority to issue “subject to regulation” permit limits on a CO₂e basis for GHGs and to amend the Federal minor NSR program in Indian country to issue synthetic minor permits for GHGs...
- EPA wants to do this just in case there is a gap and states do not have viable mechanisms to issue synthetic minor limits for GHGs
- Is this necessary??? Don’t states do this today???



Other issue raised by CIBO in comments

Tailoring Rule Language Issue remains unaddressed

- Definitions of Major Source and Major modification 52.21 (b) (1) and (2) reference the term “regulated NSR Pollutant” contained in 52.21 (50)
- EPA modified definition of Regulated NSR pollutant in the tailoring rule to reference the “subject to regulation” definition in (b) (49) of that part, EPA did not modify 52.21 (b) (50) (ii).
- (50) **Regulated NSR Pollutant**, for purposes of this section, means the following:
 - (i) Any pollutant for which a national ambient air quality standard has been promulgated and...
 - (ii) Any pollutant that is subject to any standard promulgated under Section 111 of the act....**
 - (iv) Any pollutant that otherwise is subject to regulation under the Act as defined in paragraph

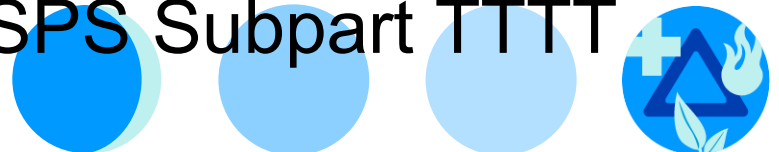


So What?

EPA has proposed promulgation of a CO₂ standard in the proposed Utility “Carbon Pollution Rule”, NSPS Subpart TTTT & is working on Refinery NSPS for GHGs

With current language, the 100,000 tpy Tailoring thresholds evaporate, subjecting every facility with over a 0.5 MMBTU/hr boiler to Title V and PSD

EPA recognizes the language issue but wants to fix it in a manner that states don't have to re-do GHG tailoring rules. Raised in in NSPS Subpart TTTT preamble only

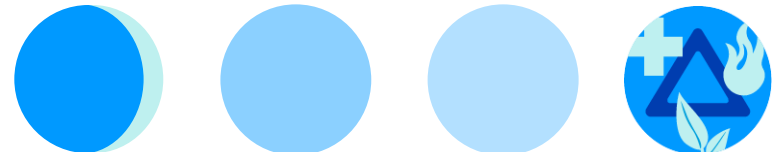


CIBO Proposed fix:

amend 52.21(b)(50) to read as follows:

- (50) Regulated NSR Pollutant, for purposes of this section, means the following:
 - (i) Any pollutant for which a national ambient air quality standard has been promulgated and...
 - (ii) Any pollutant **other than GHG** that is subject to any standard promulgated under Section 111 of the act....
 - (iv) Any pollutant that otherwise is subject to regulation under the Act as defined in paragraph

States have picked up on this issue and are also pressing EPA to address it in some manner to avoid the threshold going back to 100/250 TPY for CO₂e



What is next for GHG Permitting?

Tailoring Step 4 rule

- Final Rule 4 30 2016
- How low will it go???

Litigation?

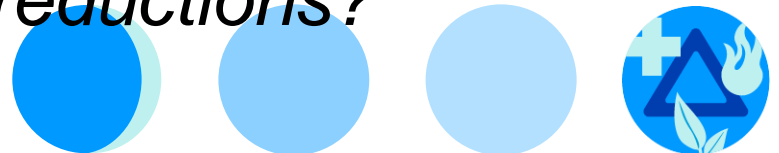
What will the DC Court of Appeals Decide?

Will the case get to the Supreme Court?

Legislation?

Will Congress step in and set the limits at the 100,000 threshold if EPA's Tailoring Rule is illegal?

What if EPA proposes further reductions?



What should Facilities do?

100,000 TPY threshold

1. Remember – Title V permit apps due 7/1/2012
2. Evaluate PTE for GHGs
3. Avoid Title V & PSD applicability if possible
 - Request limits on GHGs to limit CO₂e PTE to <100,000 TPY
 - Before 7/1/2012 to avoid Title V Applicability
 - Can avoid PSD applicability by obtaining GHG limit any time before project that would otherwise trigger PSD
4. If avoidance is not possible
 - Begin preparing Title V applications for submittal by 7/1/2012
 - Anticipate long and complex PSD permitting for your facility

