

**DEPARTMENT OF ENERGY
CLEAN AIR WORK GROUP (CAWG)**

Conference Call Minutes

DATE: February 3, 2011
TIME: 1:00 to 2:30 PM EST
CALL-IN NUMBER: (303) 248-0285 | Access Code: 5863657
PLACE: DOE/FORS- Room 6B-104
CHAIR: Larry Stirling, Office of Environmental Policy and Assistance, HS-22

1:00 Welcome and Introduction – Larry Stirling

1:10 Updates

I. Air Quality Regulations

A. Update on Boiler & Incinerator NESHAP Update

EPA had asked the courts for extra time (until next year) to incorporate the comments received on the draft NESHAP because they received so many comments on this NESHAP. The courts gave them 30 days and the final rule is currently under review at the White House. Because EPA did not get the time they needed to adequately respond to the comments, Andrew expects EPA to immediately turn around and reconsider the rule. The upcoming final rule may not be the final word on this NESHAP.

B. Proposed and Direct Final Rule on Fossil-Fuel-Fired Electric Utility

In this rule, EPA is clarifying the Fossil-Fuel-Fired Electric Utility testing requirements. This rule is not related to the NSPS changes discussed below as related to the impact on regulating greenhouse gases (GHGs) under Title V.

C. Greenhouse Gases, Tailoring Rule, Title V, and New Source Performance Standards “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule” became effective August 2, 2010. There is a dual Title V applicability threshold for GHGs. You must meet both thresholds to be considered major for GHGs:

- 100 tpy GHG (by weight); **AND**
- 100,000 tpy of carbon dioxide equivalents (CO₂e)
 - CO₂e = GHG tpy × global warming potential (GWP)
 - GWP from 40 CFR, Part 98, Table A-1

The Tailoring Rule is applicable to facilities that currently have Title V permits in hand AND facilities with Title V permit applications being processed on January 2, 2011. This means that if the Title V major source threshold for GHG emissions is exceeded, facility-wide GHG emissions need to be included in any renewal or modification application after January 2, 2011. The permit application must list all pollutants for which facility is major - §70.5(c)(3)(i).

For everybody else, including facilities without any permits and those with synthetic/natural minor permits, the Tailoring Rule is applicable July 1, 2011. A facility that meets the two criteria above has two options. The facility can submit a Title V permit application by 7/1/12 or can submit a synthetic minor permit application with GHG emissions limitations (reducing one of the two major-qualifying criteria - either GHG by weight or CO₂e) but the Final Synthetic Minor

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Permit must issued before 7/1/12 – NOTE: submit the permit application well before the issue date, (facilities newly subject to the Title V permit program have one year to submit a Title V permit application after becoming a major source, therefore all new Title V permit applications for GHG are due by July 1, 2012). Facilities that are not currently Title V and only have GHG emissions from boilers are not likely to meet both applicability thresholds; however, including GHG from refrigerants and SF₆ may make the facility subject to Title V for GHG.

A Title V permit only includes existing regulations; since there are currently no GHG emissions limitations, control requirements, record keeping requirements, etc., the actual Title V permit will not include any mention of GHGs. The Mandatory GHG Reporting Rule should not be in a Title V permit because it is not an “applicable requirement;” it does not have the Clean Air Act for a basis. For facilities submitting a new Title V permit, all of the other air regulations will be included: paying Title V fees, Title V reporting requirements, increased inspection frequency, and more federal involvement and scrutiny.

After publication of the Johnson Memo, EPA modified 40 CFR Part 70 to redefine Title V to include all pollutants “subject to Federal Regulation,” including GHGs. Per §70.2, a “regulated air pollutant” includes any pollutant subject to a new source performance standard (NSPS), (issued under the authority of Section 111 of the Clean Air Act). Including GHGs in any NSPS affects ALL Title V facilities. EPA intends to issue NSPS to control GHG emissions from:

- Fossil Fuel-Fired Electric Generating Utilities (EGU) - Subpart D; proposed issue date: May 2012
- Petroleum Refineries - Subpart J; proposed issue date: November 2012

In May 2012, the EGU NSPS will control GHGs, thus defining GHG as a “regulated air pollutant.” From that point on, GHG emissions information must be added to **every emissions unit** in the Title V permit application and new emissions units emitting GHG must be included in the Title V permit application. **Emissions Unit:** any activity that emits or has the potential to emit any regulated air pollutant. The Title V application process after a GHG NSPS will include:

- Updating existing emissions units to include GHG data
 - Review insignificant emissions units to determine if they still qualify as insignificant
 - Review trivial sources not in original application
- Adding new emissions units not already in the application:
 - Estimate actual & potential GHG emissions rates
 - Fuel and/or raw material usage
 - Production rate
 - Operating schedule
 - Air pollution control equipment
 - Compliance monitoring devices (see 40 CFR, Part 98)
 - Additional data required by state air program

A GHG NSPS will also impact the Insignificant Emissions Units, which are defined/listed individually by each air permitting authority, with U.S. EPA approval. There are two

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insignificant emissions unit definition categories: low emissions rate (<5 tpy, <10 lbs/day) units and categorical definition (<10 mmBtu/hr, ink jet printers). After accounting for GHG emissions, many previously insignificant units may become significant. Low emissions rate units may be affected by NSPS, especially in states with federal-only air programs that rely on the federal definition of *regulated air pollutant*. Categorical definition units should be unaffected by NSPS. Some states include a list of insignificant sources in their State Implementation Plan, other states issue a separate EPA-approved list. In areas managed directly by the U.S. EPA regional offices, there may be a separate insignificant list, similar to the list of “trivial units,” but he has not reviewed it, (Note: there should not be any DOE sites that are issued Title V permits directly from a U.S. EPA regional office).

A GHG NSPS affects the Title V permit application, but GHGs are not in the final permit because there are no GHG limitations!

There are many unanswered questions remaining regarding implementation of GHG regulation under Title V, including:

- What is the potential-to-emit for a hermetically sealed electrical device containing SF₆?
- Are the exemption thresholds for insignificant emissions units for GHG emissions by total weight or CO₂e emissions?
- Assume all refrigerants are lost to ambient air?
- What is the emissions rate for leaking equipment?
- Will state-only, non-Title V permit (minor) programs include GHG emissions?
- 1993 Redux: what information is required for a Title V permit application?

Hopefully, EPA will begin issuing policy statements to address these questions.

The political future of GHG regulation is also unclear. President Obama indicated that he would allow preempting EPA authority to regulate GHGs in exchange for a scaled-back bipartisan agreement to address climate change by encouraging clean energy development. Sen. Jay Rockefeller has proposed to block EPA from regulating GHGs from stationary sources; additional options include exempting GHGs from pending permits and precluding GHG from being subject to prevention of significant deterioration. It has also been noted that Congress can disapprove EPA's GHG regulations in a joint resolution under the Congressional Review Act, but President Obama can veto such a resolution

Helpful Links and More Information

- **PSD/Title V/Greenhouse Gases Permitting Guidance:** <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480b8662b>
- **GHG Tailoring Rule for Title V and PSD:** <http://www.gpo.gov/fdsys/pkg/FR-2010-06-03/pdf/2010-11974.pdf#page=1>
- **40 CFR, Part 70:** http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=00798402d8a2fd3d5524675701ae4c5b&tpl=/ecfrbrowse/Title40/40cfr70_main_02.tpl

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- **Federal GHG Mandatory Reporting Rule:**
<http://www.epa.gov/climatechange/emissions/subpart.html>
- For more information on GHG, Title V, and NSPS regulations, visit the EPA website at:
<http://www.epa.gov/climatechange/initiatives/index.html>
- The Title V / Greenhouse Gas Tailoring Rule Information Brief emailed by Larry on December 27, 2010 also details this process
- Andrew will update the CAWG on this issue as the rules unfold.

D. Clean Diesel and Department of Defense

EPA Region 4 approached DoD about researching clean diesel projects to develop clean diesel options controlling sulfur and particulate emissions. EPA will first look at fuel formulation and then move to requiring manufacturers to develop equipment that will utilize the clean fuel. Clean diesel requirements may begin appearing in DoD contracts.

E. Discussion Regarding Reciprocating Internal Combustion Engine NESHAP Emergency Demand Response (EDR) Comments

Larry thanked the ad-hoc subcommittee group for their comments and discussion. Andrew has consolidated the comments, which were distributed to members of the CAWG for review. These comments are to be sent to EPA early the week of February 7, 2011. The document includes examples from Argonne and Los Alamos National Laboratories, and argues that if EPA limits EDR usage to 15 hours annually, there will likely be blackouts and brownouts in power-strained areas. It is suggested that EPA should consider operation of generators to avoid blackouts the same as if the generators were operating during a blackout emergency. It is also noted that even without control technologies in place, these emergency generators emit fewer pollutants than would the facilities the power companies would be bringing online and that many power utilities are retiring old equipment and are less likely to be able to handle high electricity demand without EDR agreements in place.

F. EPA Regulatory Agenda

Larry thanked members of the CAWG who had already sent in comments regarding items of interest on the EPA Regulatory Agenda and requested other to also send in their comments. An informal email is fine. Josh Silverman echoed Larry's call for comments and stressed that this is really important to the folks at headquarters so that they can focus on the items relevant to the DOE sites.

Next Meeting

April 7, 1:00 PM to 2:30 PM Eastern Time