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WVDEP Releases GHG Permitting Guidance

The U.S. Environmental Protection Agency (EPA) identified January 2, 2011 as the date that greenhouse gases (GHG) will become subject to regulation under the federal Prevention of Significant Deterioration (PSD) Permitting Program and the Title V Operating Permit Program [75 FR 31514; Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule].

WVDEP-DAQ is pursuing non-routine rule changes to their permitting rules 45CSR14 and 45CSR30 to address GHG. WVDEP-DAQ anticipates that there will be an interim period between the time GHG permitting requirements become applicable and the time EPA approves the changes to 45CSR14 as a revision to the State Implementation Plan (SIP). Similarly, there will also be an interim period between the time GHG permitting requirements become applicable and the time EPA approves the changes to 45CSR30 as a revision to the Title V Operating Permit Program. These periods will overlap but will likely be unequal in duration because of the differing procedural mechanisms DAQ will employ to effect the changes.

During these interim periods, DAQ will adopt policy consistent with EPA's new GHG permitting policy and rules. The key lies in the definition of the term "subject to regulation" that confines permitting applicability to GHG at thresholds of 75,000 - 100,000 tons per year instead of the otherwise applicable thresholds of 100-250 tons per year. For PSD, during the interim period, DAQ intends to apply the meaning of the term "subject to regulation" as defined in 40 CFR §51.166(b)(48) to PSD rule 45CSR14 in the same manner as EPA's final tailoring rule. New or modified greenhouse gas sources in West Virginia which fall below the specified cutoffs would not be emitting pollutants subject to regulation within the definition of regulated NSR pollutant and, therefore, would not be subject to PSD permitting requirements. Further, DAQ will apply EPA's GHG definitions, significance levels and permitting thresholds as detailed in the federal counterparts 40 CFR §51.166 and 40 CFR §52.21.

The guidance can be obtained at

<http://www.dep.wv.gov/daq/permitting/Documents/WV-GHG-GuidanceDoc.pdf>