

2011 A&WMA

GHG Update – Illinois EPA

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Overview

- Legislative and Regulatory Changes
- Greenhouse Gases (GHGs)



House Bill 1297

signed by Governor on 7/12/2011

1. Permit Streamlining
2. Increased Fees
3. Sales Tax Revenue
4. GHG Provisions



GHGs – HB 1297

- GHGs are now Regulated Air Pollutants in Illinois and Subject to Regulation consistent with federal GHG tailoring rule (i.e., same thresholds, timing, and definitions).
- Establishes a permit exemption for sources of GHG emissions that are not subject to Tailoring Rule.
- If federal Tailoring Rule or ability to regulate GHGs is preempted due to federal legislation, judicial, or presidential action then the GHG provisions of Illinois legislation are likewise preempted.
- No fee charged for GHG emissions.



GHG Tailoring Rule

- Step 1 (January 2, 2011 – July 1, 2011)
 - PSD only for “already subject anyway” sources
 - New sources or existing sources with increase > 75,000 tons/yr CO₂e
 - Title V only for “already subject anyway”
 - Can’t be subject to PSD or Title V solely due to GHGs
- Step 2 (July 1, 2011 to June 30, 2013)
 - Continue Step 1 sources plus other large GHG sources
 - Can now be subject to PSD and Title V due only to GHGs
 - PSD: major = 100,000 tons/yr CO₂e, significant increase = 75,000 tons/yr CO₂e
 - Title V: major = 100,000 tons/yr CO₂e
- Step 3 (2011 to July 1, 2013 and beyond)
 - New Rule to be proposed in 2011. Final rule by July 1, 2012. Effective on July 1, 2013.
 - Possibly (likely) go to 50,000 tons/yr CO₂e for PSD and Title V – can’t go lower than 50,000 tons/yr CO₂e until at least 2016



Tailoring Rule Impact in Illinois

- Evaluated at all levels – numbers provided for major/Significant = 50,000 tons/yr CO₂e
 - Title V sources:
 - Potential emissions = 196 sources
 - Actual emissions = 90 sources
 - PSD:
 - New major sources per year = 24
 - Major modifications = 2



Illinois Required GHG Rule Revisions

- Regulations:
 1. **Part 270 – CAAPP – Raise GHG Thresholds to match federal Tailoring Rule**
 2. **Part 251 – Procedures for Collection of Air Pollution Fees – Clearly identify that no fees for GHGs**
 3. **254.210 – GHG Reporting Requirements**



State Reporting of GHG Emissions

- Part 254 - For some time reporting of GHG emissions in Illinois' Annual Emissions Reports was voluntary, now that GHGs are Regulated Air Pollutants, reporting of GHG emissions is mandatory.
- Revision to Annual Emissions Reporting rule, Part 254, keep in place current type of form (long or short) based on criteria pollutant emissions (> 25 tons/yr), i.e., emissions of GHG play NO role in determining reporting form submitted.



Federal Mandatory Reporting Rule

- On October 30, 2009, USEPA adopted its “Mandatory Reporting of Greenhouse Gases” (74 FR 56259).

This rule:

- Applies to direct emitters of fossil fuel suppliers, industrial gas suppliers, and facilities that inject CO₂ underground for sequestration or other reasons.
- Sets the threshold for reporting at 25,000 metric tons or more of CO₂e per year.
- Requires reporting at the facility level, except for certain suppliers of fossil fuels and industrial greenhouse gases.



Permitting in Illinois – CAAPP Permits

- GHG emissions must be addressed in applications (e.g., renewals, modifications) received after July 1, 2011 (effective date of step 2 of Tailoring Rule, >100,000 tons/yr CO₂e = major) .
- CAAPP sources identify whether they are major or non-major for GHG emissions with supporting calculations.
- Not yet any emission standards or other substantive requirements for control of GHG emissions.*

**The Mandatory Reporting Rule is also NOT an “applicable requirement” since it was adopted under Section 114 of the Clean Air Act.*



Permitting in Illinois – FESOP Sources

- Working on FESOPs and construction permits for projects at FESOP sources with GHG emission limits in terms of CO₂e.
- Limits assure that sources are not major source based on GHG emissions.
- These applications do not yet routinely include data for GHG emissions, adding delay.



Permitting in Illinois - PSD

- Currently reviewing several applications for PSD permits in which case-by-case determinations of Best Available Control Technology (BACT) must be made for GHG. (*~ 5 applications to date*)
- Focus is on process and fuel efficiency as means to control emissions with limits for CO₂ and CO₂e. Other means, e.g., use of natural gas and sequestration, also considered using Top-Down BACT Process to verify that they should not be required of projects.



Watching

1. Court Challenges to GHG regulation
2. Legislative Action to undo/delay Tailoring Rule (is Cap & Trade dead??)
3. Administrative Branch - USEPA
 - GHG NSPS, Settlement Agreements to Address GHG Emissions From Electric Generating Units and Refineries, Regulation of stationary sources under Section 111(d) of CAA.
 - Agreements between some States + DC + NY City + Environmental groups and USEPA.
 - Propose regs by Dec. 2011, Finalize by Nov. 2012.
 - The NSPS is for existing sources but also requires regulation of existing sources.
 - Inherent in the NSPS are “emissions guidelines” that require States to adopt regulations for existing sources.
 - Problematic – Illinois would need to adopt rules for existing sources – but no known feasible controls for CO2 exist.

