

Overview of EPA's Proposed Greenhouse Gas Tailoring Rule for Air Permitting Programs

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ACCO Working Groups & Discussion Forums

- **Update on Data & Performance Metrics Working Group**
 - First meeting conducted in August 2009
 - Participants include Applied Materials, Bayer, CARB, Johnson Matthey, Honda, Linde, Midac Corporation, Red Dot Corporation, Waste Management with observers from US EPA
 - EPA Published Final Rule for Mandatory GHG Reporting Requirement on 9/22/09
- **Working Groups & Discussion Forums in Development**
 - National security and climate change
 - Carbon markets / offsets
 - Renewable energy applications & RECs
 - Government affairs forum
 - Organizational structures & change management
 - Supply Chain Management
 - **Missing a topic of interest? Interested in helping to lead a group? Let us know!**

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Other ACCO Updates

- ACCO to Partner with the Climate Action Reserve in Copenhagen in December 2009
 - ACCO will participate in numerous business conference and side events
- Paper on Organizational Structures and the Climate Change Officer to be Published by BNA in October 2009
- ACCO Webinar Series to Move to Fee-Based Programming in Fall/Winter 2009
 - All ACCO webinars will remain complimentary for ACCO members
 - ACCO will continue to offer select complimentary webinars (e.g. October 15, 2009 webcast on the EPA Green Power Partnership Program)
 - Program costs for non-members will vary based on partners involved, topics and other variables

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ACCO Individual Memberships

- Invitations to exclusive networking, education and professional development activities/events
- Subscription to CCO Connect™
- Complimentary access to ACCO Webinar Series "premium" programs (savings of more than \$1,200 per year)
- Discounts on registration fees for all ACCO events (minimum of 25% off fees for annual conference, workshops, seminars, etc.) and ACCO partner events
- Access to ACCO's Advisory Board and ACCO Business Partners
- Access to the ACCO Job Bank (to be launched in Fall 2009)
- One complimentary job posting in the ACCO Job Bank and discounted fees for all jobs posted thereafter (to be launched in Fall 2009)
- Discounts on registration fees for ACCO Certificate Seminars and Workshops taught by top academic institutions
- Subscription to CCO Quarterly™ (first issue to be published in Fall 2009)
- CCO Certification Programs (to be launched in 2010)

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ACCO Individual Memberships *(cont'd)*

- Learn more about ACCO memberships online at:
www.ACCOonline.org

Category	Cost	Membership Term
Corporate	\$695	1 year
Special Offer!!!	Sign up by 11/30/09 and get 2nd year for \$350 more	
Government	\$395	1 year
Special Offer!!!	Sign up by 11/30/09 and get 2nd year for \$225 more	
Non-profit	\$395	1 year
Special Offer!!!	Sign up by 11/30/09 and get 2nd year for \$225 more	
Academic	\$395	1 year

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Representative Participants

- Abbott Laboratories
- ALG
- Air Products & Chemicals
- American Carbon Registry
- American Honda
- Applied Materials
- Bayer Corporation
- Bayer HealthCare
- California Air Resources Board
- Carbon Disclosure Project
- City of Berkeley
- City of Seattle
- Coca-Cola
- Columbia University
- District of Columbia
- El Paso Corporation
- FedEx
- Gavilon
- Intel
- Ironshore Holdings
- Johnson Matthey
- Linde Gas
- Maryland Public Service Commission
- Midac Corporation
- Ministry of Environment & Natural Resources in Mexico
- Pacific Forest Trust
- Pacific Gas & Electric
- Red Dot Corporation
- State of Illinois
- State of Maryland
- Trucost
- US EPA
- UN Environmental Programme
- UN Foundation
- University of California, Berkeley
- UTC Fire & Security
- Washington Gas
- Waste Management

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For more information about the Association of Climate Change Officers (ACCO), please contact:

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Keep current on ACCO activities using:

- [LinkedIn](#) (Group name: Association of Climate Change Officers)
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Overview of PSD/Title V Greenhouse Gas Tailoring Rule

November 2009



Why the Tailoring Rule is needed

- By rule/policy, PSD and Title V permitting programs under the Clean Air Act apply to major sources and modifications of “regulated NSR pollutants.”
 - GHG are not now “regulated” and thus are not covered by these programs now
 - There are concerns about how we would administer these programs if GHG become “regulated”
- Specifically the concerns about regulation of GHG stem from the fact that:
 - By statute, for Title V, the major source threshold is 100 tons/year.
 - By statute, for PSD, the threshold is 250 tons/year (100 tons/year for some categories).
 - For PSD modifications, any change at a major source that results in “any increase” of GHGs would trigger PSD unless we establish a “significance level” that excludes smaller modifications.
 - GHGs (especially CO₂) are emitted in much greater mass than conventional pollutants, so very small sources exceed the 100/250 ton per year levels.

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Why we need the Tailoring Rule

- For title V, millions of smaller sources would be newly classified as major for GHG.
 - About 15,000 major sources now
- For PSD, tens of thousands of smaller new sources and modifications each year would be newly classified as major for GHG.
 - About 300 new major sources/modifications per year now
- The administrative burdens of permitting large numbers of newly-subject sources would cause severe disruption to the existing programs.
 - Many of these sources are in commercial/residential categories that have no experience with CAA permitting
- Tailoring these programs to address large numbers of small sources is necessary to provide a common sense approach to GHG regulation.

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How would the Tailoring Rule Address This?

- Proposes to raise the “major source” thresholds and PSD “significance levels”
 - PSD and Title V: major source size raised to 25,000 tons/year CO₂e (sum of 6 gases)
 - PSD significance level: raised to a number within the range of 10,000-25,000 tons/year CO₂e (sum of 6 gases)
 - Proposal takes comment on other levels.
 - Proposal also takes comment on use of CO₂e metric/6 gases
 - Use of CO₂e (sum of six gases) improves source flexibility, simplicity, and consistency with GHG control regulations/climate endpoint.
- Facilities above these levels would still be required to obtain permits.
 - Facilities that remain covered are responsible for nearly 70 percent of stationary source GHG emissions.
 - Facilities proposed for exclusion comprise only 7 percent.
- Small farms, restaurants, office buildings, etc. would not need to get permits.

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Legal Basis for Proposal

- Although the rule departs from statutory thresholds it is permissible to do so under two separate legal bases:
 - “Absurd results”
 - Courts have held that a statutory requirement need not be applied literally if doing so would produce “absurd results” that would be inconsistent with congressional intent.
 - Applying the PSD and Title V statutory thresholds literally would be a classic case of an “absurd result” because it would sweep into the two permitting programs unprecedented numbers of small sources that Congress did not intend be included, and the resulting administrative burdens would prevent the State permitting authorities from permitting the larger sources that Congress did intend be included.
 - “Administrative necessity”
 - Courts have held that a statutory requirement need not be applied literally if it would be impossible for the agency to administer it.
 - Applying the PSD and Title V statutory thresholds literally would create impossible administrative burdens for the State permitting agencies.

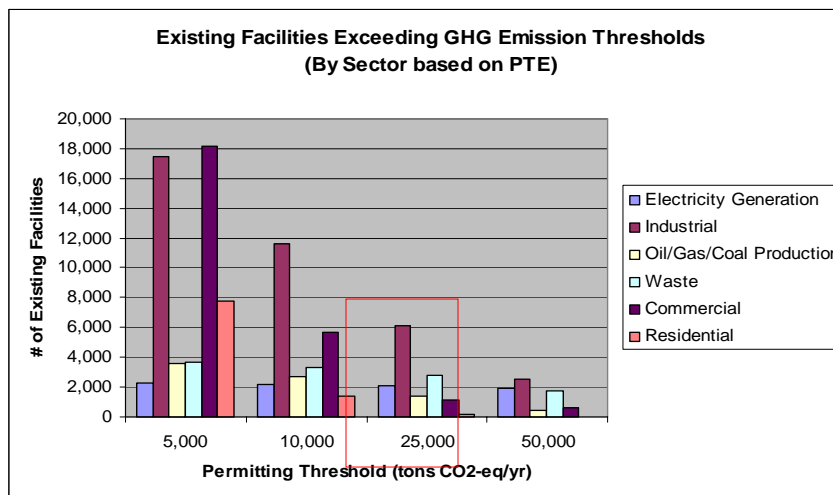
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Selection of Proposed Levels

- Selection driven by what is necessary to meet congressional intent as closely as possible, and what is administratively feasible.
 - Must choose lowest level that we judge possible to administer
- 25,000 tons per year CO₂e (and 10,000-25,000 tons per year CO₂e for modifications) is proposed as the lowest level at which the program could be administered for the next six years, because:
 - Going lower (we evaluated 1,000, 5,000, and 10,000 tpy) starts to rapidly increase commercial and residential source applicability.
 - Going higher (we evaluated 50,000 and 100,000) is likely harder to justify with administrative necessity because coverage is less than we have now.
- At proposed levels, GHG regulation would add workload to permitting authorities, but proposal suggests it would not overwhelm them:
 - About 3,000 sources to Title V's current universe of 15,000 sources.
 - Fewer than 100 sources and modifications per year to PSD's current universe of 300 permits per year.
 - Most of the added sources are large municipal solid waste landfills with major amounts of methane.
 - A large share (but not all) of existing major source population will also be major for GHG.
- Promotes coverage of nearly 70% of GHG emissions. Lower thresholds yield small increases in coverage but significant increases in burden.

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Additional Information About 25,000 ton/year Level



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Additional Elements of Proposal

- EPA identifies measures it will consider for streamlining permitting over the next several years
 - For example, general permits.
- After 5 years, EPA will evaluate whether to change threshold and will do a rulemaking to reflect this.
- Streamlined approach to get rule in place in States.
- Does not address how to set BACT for sources left in program, but commits to separate process to assist with this.
- Also separately notes that, while it makes sense to remove smaller sources from permitting, there may be other cost effective ways to address their emissions.

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Questions & Answers

- Please send your questions using the chat function on WebEx

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Upcoming Webinars / Events

- Webinars
 - November 19, 2009:
 - The Road to Copenhagen
 - December 2009:
 - President Obama's Executive Order to Federal Agencies and Impacts on Government and Procurement
 - Organizational Structures and the Role of the Climate Change Officer
- Workshops:
 - December 8, 2009:
 - Data & Performance Metrics meeting in Washington, DC on
- Stay tuned to <http://www.ACCOonline.org/events.html> for more info

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