

Clean Air Act Advisory Committee (CAAAC)

Permits, New Source Review and Toxics Subcommittee



Greenhouse Gases (GHG) Permit Streamlining Workgroup Report Out

September 20, 2012



Presentation Outline

- GHG Permit Streamlining Workgroup
 - Introduction
 - Members
 - Charge
 - Approach
 - Written Report General Observations
 - Written Report Observations by Sub-Workgroup Topic



Streamlining Options Development - GHG Permit Streamlining Workgroup

- Tasked with developing and recommending to EPA potential streamlining approaches for GHG permitting
- Comprised of representatives from states and local agencies, tribes, industry, one environmental group, and EPA
- Co-Chaired by:
 - Juan Santiago, EPA
 - Andy Ginsburg, Oregon Department of Environmental Quality
 - Mohsen Nazemi, South Coast Air Quality Management District
- Started in April 2012 and is expected to complete its work by October 2012



Workgroup Members

- **Industry**

- John Holmes, AEMS, LLC
- Mary Turner, Waste Management
- Robert Hilton, ECS Global ALSTOM Power
- Robert Wyman, Latham and Watkins LLP

- **Environmental Groups**

- Praveen Amar, Clean Air Task Force

- **Tribes**

- Joy Wiecks, Fond du Lac Reservation

- **EPA**

- Juan Santiago, Office of Air and Radiation

- **State and Locals**

- Andrew Ginsburg, Oregon Department of Environmental Quality
- James Capp, Georgia Department of Natural Resources
- John Paul, Regional Air Pollution Control Agency
- Misti Duvall, National Association of Clean Air Agencies
- Mohsen Nazemi, South Coast Air Quality Management District
- Ursula Kramer, Pima County Department of Environmental Quality
- Vince Hellwig, Michigan Department of Environmental Quality



Workgroup Charge

1. Review the EPA identified streamlining methods and source categories. Confirm, expand or narrow both the scope of streamlining methods EPA should explore further, and the source categories that may be well-suited either individually, or collectively for each streamlining approach.
2. Identify the regulatory and policy barriers associated with further development of permit streamlining methods for each of the source categories, and recommend approaches to address those barriers.
3. Prioritize the source categories and streamlining methods for further development by EPA and recommend and implementation approach for each method.



Workgroup Approach

- Workgroup divided itself into four smaller sub-work groups to explore possible streamlining approaches for both PSD and Title V permitting in the following categories:
 1. PSD permit streamlining for GHG-only sources.
 2. PSD permit streamlining for GHG sources that trigger permitting for other pollutants.
 3. Title V permit streamlining for “empty permits” and “hollow permits”
 4. Plant-Wide Applicability Limits (PAL) Streamlining



Workgroup Written Report

- Draft Written Report completed on September 14, 2012
- In general, the report:
 - Provides a summary of GHG permit streamlining information received either through EPA's Tailoring rule process or the workgroup's efforts to collect additional information
 - Does not offer recommendations due to resource and time constraints
 - Recommends EPA solicit stakeholder feedback on the options through public notice and comment rulemaking (the workgroup did not discuss the timing of such action)
 - Convening another stakeholder group is not recommended because the workgroup believes there are adequate lists of streamlining measures that EPA can pursue through notice and comment rulemaking



Workgroup Written Report – Possible Streamlining Techniques

- Possible streamlining techniques include:
 - PTE restrictions (permanent or phased-in)
 - General Permits and permits-by-rule
 - Presumptive BACT
 - Environmental performance standards with annual compliance certifications
 - Unit or source category specific exemptions
 - Permits for equipment suppliers rather than for equipment owners/operators (certified equipment)
- Should EPA choose to pursue any of these streamlining options, the agency should first further investigate its costs and benefits
 - Maximize environmental protection while reducing administrative burden
 - It is unnecessary to finalize these techniques at current applicability levels (some stakeholders)



Workgroup Written Report – Stakeholder's General Opinion on Streamlining Techniques

- State and locals
 - Generally supportive of streamlining techniques, especially in regards to minor sources
 - New techniques should not preempt programs that are currently functioning well
 - EPA should solicit stakeholder feedback on the options through public notice and comment rulemaking
- Tribes
 - Streamlining techniques should not weaken Environmental Justice (EJ) and Endangered Species Act (ESA) requirements
- Industry
 - Supportive of streamlining techniques
 - Prudent to also streamline current permitting process
- Environmental Groups
 - No need for streamlining techniques at current applicability levels



Sub-Workgroup Topic 1: PSD Permit Streamlining for GHG Major Sources that Trigger Permitting for Other Pollutants

- **Purpose:**

- To explore streamlining techniques for sources that trigger PSD permitting for GHGs and consequently trigger PSD for additional pollutants under EPA's "major for one, major for all policy"
 - All pollutants emitted in non-major amounts will be reviewed for PSD applicability by using their respective significant emissions rates (SER)
 - Emissions equal to or higher than SER make the pollutant subject to PSD

- **Chair:**

- **John Paul**, Regional Air Pollution Control Agency

- **Members:**

- **Joy Wiecks**, Fond du Lac Band of Lake Superior Chippewa
- **James Capp**, Georgia Env. Protection Division
- **Misti Duvall**, National Association of Clean Air Agencies
- **Robert Hilton**, Alstom Power
- **Robert Wyman**, Latham and Watkins
- **Praveen Amar**, Clean Air Task Force
- **Vince Hellwig**, Michigan Dept. of Env. Quality
- **Mary Turner**, Waste Management



Sub-Workgroup Topic 1: PSD Permit Streamlining for GHG Major Sources that Trigger Permitting for Other Pollutants (Cont.)

- This sub-workgroup worked together with sub-workgroup 2 (i.e. permit streamlining for GHG-only sources) to seek input from various stakeholders
- The sub-workgroups developed a set of five questions to better inform them on potential streamlining options. Questions assume that proposed new source would trigger PSD permitting solely because of its GHG emissions.
 1. What is the general set of requirements triggered?
 2. What are the consequences of triggering these requirements?
 3. What are some likely source categories that will be brought into major source review solely because of GHG emissions?
 4. Are there any streamlining options besides applicability options?
 5. What are some potential alternatives to PSD for sources once PSD is triggered by GHG emissions?
- The sub-workgroups also reviewed the streamlining options that EPA identified and sought comment on as part of the Tailoring Rule (Defining PTE; Establishing emissions limits for presumptive BACT for various source categories; Using general permits or permits-by-rule; Using electronic permitting; Efficient permitting of GHG sources, best known as “lean techniques”)



Sub-Workgroup Topic 1: PSD Permit Streamlining for GHG Major Sources that Trigger Permitting for Other Pollutants – Potential Streamlining Options

- **Georgia Environmental Protection Division (GEPD)**
 - Allow the use of surrogate BACT emission limits to demonstrate GHG BACT compliance
 - Establish *de minimis* values for PSD applicability
 - Establish *de minimis* exemptions to statutory requirements where the application of the statutory requirements would be of trivial or no environmental value
 - Establish presumptive BACT for certain types of emission units
 - Case-by-case technology requirement would be met by using top-down BACT approach for selecting the BACT limit



Sub-Workgroup Topic 1: PSD Permit Streamlining for GHG Major Sources that Trigger Permitting for Other Pollutants – Potential Streamlining Options (Continued)

- **American Petroleum Institute (API)**
 - Supports improvements to the current permitting process such as:
 - Enhanced minor source permitting
 - A moratorium on carbon capture and storage (CCS) for all sources except the largest CO₂ sources
 - Establishing a PTE transition policy
 - Redefining the term “construction activities”
 - Expediting SIP approvals
 - Expediting permit reviews
 - Supports streamlining techniques such as:
 - General Permits
 - Presumptive BACT, especially for natural gas combustion sources
 - Issuing guidance for streamlining the ESA, EJ and cultural resource reviews



Sub-Workgroup Topic 1: PSD Permit Streamlining for GHG Major Sources that Trigger Permitting for Other Pollutants – Potential Streamlining Options (Continued)

- **National Environmental Development Association's Clean Air Project (NEDA/CAP)**
 - Supports improvements to the current permitting process such as:
 - Eliminating or streamlining the analysis of CCS in BACT reviews
 - Developing a strategy to reward sources that have taken or will take synthetic minor limits prior to becoming GHG-only sources to avoid PSD permitting for other pollutants
 - Supports streamlining techniques such as:
 - Developing a strategy to minimize or eliminate permitting for pollution control projects that trigger increases in GHGs and that cause increases in “other” pollutants
 - Revising existing guidance and regulations so that PSD review would be confined to GHGs
 - Exempting GHG-only sources from the “major for one, major for all” policy



Sub-Workgroup Topic 1: PSD Permit Streamlining for GHG Major Sources that Trigger Permitting for Other Pollutants – Potential Streamlining Options (Continued)

- **Tribal Input**

- Conference and Individual Calls
- No consensus as to streamlining options.
 - Tribes engaged in issuing permits themselves more likely to agree with streamlining approaches.
- Concerns expressed about suggestions to streamline the EJ and ESA review process.



Sub-Workgroup Topic 2: PSD Permit Streamlining for GHG-Only Sources

- **Purpose:**

- To evaluate various options and approaches to streamline permitting for sources with GHG emissions equal to or higher than the GHG thresholds specified in the GHG Tailoring Rule.

- **Chair:**

- **Mohsen Nazemi**, South Coast Air Quality Management District

- **Members:**

- **Joy Wiecks**, Fond du Lac Band of Lake Superior Chippewa
- **James Capp**, Air Branch, Georgia Env. Protection Division
- **Misti Duvall**, National Association of Clean Air Agencies
- **Robert Hilton**, Alstom Power
- **Robert Wyman**, Latham and Watkins



Sub-Workgroup Topic 2: PSD Permit Streamlining for GHG-Only Sources – Potential Streamlining Options

- **South Coast Air Quality Management District (SCAQMD)**
 - Supports streamlining options such as:
 - Limiting PTE through prohibitory rules (e.g., limit GHG emissions below 50% of the major source thresholds)
 - Addressing GHG-Only Sources under the Minor NSR Program Only
 - Delaying PSD Permit Elements for New Climate Warming Pollutants (e.g., black carbon, ozone, etc.)
 - Improving certainty of the BACT analysis
 - Develop software to better assess localized impacts
 - Minimize corollary pollutant analyses
 - Provide standardized calculation sheets
 - Limit environmental and economic analyses to only two scenarios



Sub-Workgroup Topic 2: PSD Permit Streamlining for GHG-Only Sources – Potential Streamlining Options (Continued)

- **South Coast Air Quality Management District (Continued)**
 - Supports streamlining options such as:
 - Expanding synthetic minor program to states with delegated programs
 - Encouraging the use of flexible air permits for GHG sources
 - Allowing the use of presumptive BACT for smaller and less-complex sources
 - Using general permits for source categories where sources have very similar operational requirements
 - Establishing that cap and trade program allowances and offsets should not trigger PSD permitting in and of themselves



Sub-Workgroup Topic 2: PSD Permit Streamlining for GHG-Only Sources – Potential Streamlining Options (Continued)

- **Los Angeles County Sanitation District (LACSD)**
 - Supports streamlining options such as:
 - Streamlining PTE calculations for sources such as landfills
 - Using presumptive BACT. However, BACT should not be a “one size fits all approach” and NSPS compliance should be considered as BACT for some source categories.
 - Allowing programmatic equivalency
 - Not applying “Major for One, Major for All” policy to GHG PSD permitting
 - Clarifying that under no circumstances will GHG be regulated beyond BACT and public notice requirements under PSD
 - Permanently excluding biogenic CO₂ emissions from permitting



Sub-Workgroup Topic 3: Title V Permit Streamlining for “Empty Permits” and “Hollow Permits”

- **Purpose:**

- To explore and discuss streamlining techniques for GHG-only sources that trigger Title V permitting, but that are not subject to any major source requirements.
 - **Hollow Permits** – Permits do not contain requirements for GHGs, but contain other applicable requirements such as monitoring, recordkeeping and reporting requirements
 - **Empty Permits** – Permits with no applicable requirements, only general conditions.

- **Chair:**

- **G. Vinson Hellwig**, Air Quality Division, Michigan Department of Environmental Quality

- **Members:**

- **John Holmes**, AEMS, LLC
- **Mohsen Nazemi**, South Coast Air Quality Management District



Sub-Workgroup Topic 3: Title V Permit Streamlining for “Empty Permits” and “Hollow Permits” – General Observations

- Title V “empty” permits could be streamlined by using:
 - Simplified permit conditions
 - List GHGs as a pollutant with no GHG monitoring, record-keeping or reporting requirements
 - General permits and permits-by-rule
 - Synthetic minor permits
 - Exemptions by rule for seasonal sources, specific equipment or naturally low emissions sources
- Title V “hollow” permits could be:
 - Deferred from permitting under a predetermined schedule to aid permitting authorities with the additional permitting workload



Sub-Workgroup Topic 4: PAL Issuance Process Streamlining

- **Purpose:**
 - To discuss options for streamlining the issuance of GHG PALs
- **Chair:**
 - **John Holmes**, AEMS, LLC
- **Members:**
 - **Mary Turner**, Waste Management



Sub-Workgroup Topic 4: PAL Issuance Process Streamlining – Potential Streamlining Options

- Sub-workgroup identified five problems associated with the issuance of GHG PALs:
 1. Establishing the PAL baseline for GHGs
 2. Establishing the PAL baseline for landfill GHGs
 3. GHG monitoring provisions for a GHG PAL
 4. Resetting the PAL upon renewal
 5. Establishing a GHG PAL for a greenfield (new) facility
- Sub-workgroup identified potential options to address these five issues



Sub-Workgroup Topic 4: PAL Streamlining – Potential Streamlining Options(Continued)

- Potential options to address these five issues:
 1. Establishing the PAL baseline for GHGs
 - Develop guidance that address the best ways to evaluate historical and future emissions of GHGs until such a time as sources have ten years of data. Guidance could address:
 - When are parties expected to use the methods in the GHG reporting rule to evaluate historical GHG emissions under PSD?
 - When the necessary historical data do not exist to apply those methods, when are parties to either estimate those data or rely on other methods?
 - What other methods might be used?
 - To the extent the reporting rule does not address certain GHGs, what methods should be considered?
 - For consistency, should PAL tracking use the same methods as were used to set the PAL? In those instances, when and how should the transition to GHG reporting rule methods occur?



Sub-Workgroup Topic 4: PAL Streamlining – Potential Streamlining Options(Continued)

- Potential options to address these five issues (continued):
 2. Establishing the PAL baseline for landfill GHGs
 - Consider issuing a PAL that increases over time, consistent with the trajectory of emissions of the landfill over time
 3. GHG monitoring provisions for a GHG PAL
 - Issue guidance that could apply both to setting and tracking compliance with PALs including:
 - Indicating whether compliance with the methods in the reporting rule is presumptively adequate for these purposes
 - Identifying the issues that permit writers need to address beyond the reporting rule
 - Indicating what specific methods are preferred when filling in the gaps that exist in the reporting rule
 - Indicating if and when it is appropriate to deviate from this guidance to provide consistency comparisons of historical and future emissions when other methods were used to establish a baseline



Sub-Workgroup Topic 4: PAL Streamlining – Potential Streamlining Options(Continued)

- Potential options to address these five issues (continued):
 - 4. Resetting the PAL upon renewal
 - Clarify the rule language on setting the PAL at the time of renewal
 - Alternately, specify the resetting conditions in the initial PAL permit if the permitting agency and the permittee are willing to do so and if conditions are consistent with the PAL and public noticing requirements
 - Guidance on this issue could be helpful
 - 5. Establishing a GHG PAL for a greenfield (new) facility
 - Determine that, for purposes of a PAL at a greenfield facility, the baseline actual emissions of all the units, which are all “new,” is equal to their potential to emit
 - The PAL could be later reduced if the PTE of the greenfield facility is later reduced



Streamlining Options Development – Potential EPA Next Steps

- Review CAAAC GHG Permit Streamlining Workgroup observations if/when report is given to EPA by CAAAC.
- Review possible streamlining approaches as identified in the Tailoring rule and further analyze the comments received for these and other streamlining approaches.
- Determine viable streamlining options and take action on further development.
 - Mechanism for development of streamlining techniques to be determined.

Questions or comments?

