

Climate Change and Clean Technology Blog

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EPA Will Not Require Stationary Sources to Obtain Clean Air Act Permits for GHGs Until January 2011

By [Adrienne Lee](#)

Yesterday, the U.S. Environmental Protection Agency issued its decision that stationary sources will not be required to get federal permits under the Clean Air Act for greenhouse gases (GHGs) before January 2011. According to EPA Administrator Lisa P. Jackson, “This is a common sense plan for phasing in the protections of the Clean Air Act. It gives large facilities the time they need to innovate, governments the time to prepare to cut greenhouse gases.” Jackson also announced that during the latter half of 2011 and 2013, the threshold for permitting will be raised “substantially higher” than the originally proposed 25,000-ton limit, with the smallest sources exempted from Clean Air Act permitting requirements until at least 2016.

In a December 18, 2008 memorandum entitled “EPA’s Interpretation of Regulations that Determine Pollutants Covered by Federal Prevention of Significant Deterioration (PSD) Permit Program,” the EPA decided that the PSD Permitting Program would apply to pollutants that are subject to either a provision in the Clean Air Act or a regulation adopted by EPA under the Clean Air Act that requires actual control of emissions of that pollutant. Under this permitting program, companies would have to apply for a Clean Air Act permit before constructing new industrial facilities or expanding existing facilities in a way that significantly increases emissions.

Today, the EPA refined its interpretation of the memorandum and formally announced that the Clean Air Act permitting program will not be triggered for GHGs until a final nationwide rule “takes effect.” The EPA has concluded that the Clean Air Act program requirements will apply to GHGs when the anticipated tailpipe standards for light-duty vehicles (known as the “LDV Rule”) take effect. This means that the rule limiting GHG emissions for cars and light trucks would trigger the permitting requirements in January 2011, the earliest point at which 2012 model vehicles meeting the standards can be sold in the United States. Later this spring, the EPA will make a decision on the amount of GHGs a facility can emit before triggering the

requirement to include limits for these emissions in its permit.

For a more detailed discussion regarding the development of EPA's GHG rules, please see [EPA Defends Proposed GHG Plan But Extends Timeline](#) (March 1, 2010) and [EPA Uses the Clean Air Act to Propose New Rules Intended to Reduce GHG Emissions from Large Emitters](#) (October 6, 2009).

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