

Agenda Item: 10-32 Request for 30-day Waiver and Request to Proceed to Hearing on Prevention of Significant Deterioration (PSD) and Permitting Rule Amendments to Incorporate Greenhouse Gas (GHG) Tailoring Provisions (492)

Explanation:

On May 13, 2010 the U.S. Environmental Protection Agency Administrator Jackson signed the final Greenhouse Gas Tailoring Rule and published it in the *Federal Register* on June 2, 2010. The effective date of the rule is August 2, 2010.

GHGs are emitted in much greater mass than conventional pollutants. At the current PSD and Title V applicability levels of GHG emissions, numerous sources, including many small sources that would not otherwise be required to hold air quality permits, would be required to be permitted for GHG emissions. Recognizing that tailoring of the PSD and Title V permitting programs is necessary to provide a common sense approach to GHG regulation that effectively balances the burdens on both the permitting authorities and the regulated community, EPA developed a tailoring rule.

Under the final federal regulation, EPA defines the terms “subject to regulation”, “greenhouse gases”, “CO₂ equivalent emissions”, “emissions increase” and “significant” and establishes related thresholds, and amends the definition of “major source” relative to GHGs. The final federal tailoring rule regulates permitting of sources of GHG emissions in two steps. In the first step, new major stationary sources of a regulated new source review (NSR) pollutant other than GHG that also have the potential to emit or will emit GHG emissions \geq 75,000 tons per year (tpy) CO₂e and existing major stationary sources for non-GHG that have an emissions increase of a regulated NSR pollutant and an emissions increase of CO₂e of 75,000 tons per year or more are required to undergo PSD review and to obtain Title V permits. In step two new stationary sources that will emit or have the potential to emit 100,000 tpy CO₂e and at existing stationary sources, that emit or have the potential to emit 100,000 tpy CO₂e, modifications that will result in an emission increase of 75,000 tpy CO₂e or more are required to undergo PSD review and to obtain Title V permits. Under the final federal regulation, EPA considers GHGs subject to regulation beginning January 2, 2011.

North Carolina has its own approved PSD program and does not automatically pick up the federal tailoring provisions. Rulemaking is necessary to incorporate GHG as a regulated pollutant and to implement tailoring provisions to allow DAQ to efficiently and effectively

implement its PSD and Title V permitting programs. The rule amendments are proposed to add tailoring provisions to the state rules.

To potentially have tailoring provisions in place in North Carolina by January 2, 2011 without a special meeting of the EMC and to avoid the impact the federal tailoring rule is designed to address, waiver of the EMC's 30-day rule is necessary.

Recommendation:

The Director recommends that the Commission consider a 30-day waiver on these rule amendments, authorize a public hearing on these amendments and that the Chairman appoint a member of the Commission to serve as hearing officer.