The Regulatory Permitting Climate Forecast is Getting Hot

Recently, there has been a lot of regulatory activity with respect to air quality regulations. The U.S. Environmental Protection Agency (EPA) is proposing revised National Ambient Air Quality Standards for Sulfur Dioxides, Nitrogen Dioxides, PM2.5, and Ozone. They are also issuing additional regulations for boiler and existing generators under the Maximum Achievable Control Technology (MACT) program. However, the EPA is moving forward in regulating Greenhouse Gas emissions and has published not only the reporting rule last year but its final rule to control greenhouse gas (GHG) emissions from stationary sources.

If you are a major source under the prevention of significant deterioration program or a major source under Title V you will be subject to this rule. Absent Congressional action or a judicial challenge, this rule will regulate GHG emissions from certain sources beginning January 2, 2011.

GHGs are gases that play a major role in global warming. EPA has designated six GHGs to account for in your permitting efforts. These GHGs are: carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF6). The first three are more common, although the last three have high potential. HFC and PFC may be used at your facility in refrigeration or chillers since they are replacements for ozone depleting substances. You will need to consider all these pollutants as a group to determine applicable permitting requirements. Basically, you will need to put consider all the pollutants as one, called “carbon dioxide equivalent” or CO2e.

Companies currently planning to construct or modify any major source of GHGs should become familiar with the provisions of this rule. It is crucial for companies to determine their greenhouse gas emission baseline. Many companies have completed or begun this process. If you have not, it is would be a good time to start. This will also help you in any sustainability project that you may be ready to undertake. In any event, some highlights of rule are:

- GHG emissions cannot trigger PSD review by themselves;
- New Source;
- Major Source GHG sources (100,000 tpy) will undergo PSD permitting for their GHG emissions only if:
    - The source is required to undergo PSD permitting due to other regulated pollutants;
    - The GHG emissions increase or GHG net emissions increase is greater than or equal to 75,000 tpy CO2e; and
    - The emissions increase or net emissions increase exceeds 0 tpy calculated as the sum of the six GHGs on a mass basis.
- Best Available Control Technology will be required for GHGs;
- A facility will not become major sources for Title V permitting purposes based solely on their GHG emissions; and
- If you have a Title V permit you will be required to address GHGs requirements as part the title V permitting when you apply for a permit renewal or revise your permit. This will mean more monitoring and recordkeeping.

Stay tuned since more rule making is expected in 2012. EPA's Final Rule entitled "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" is available at EPA's website: http://www.epa.gov/nsr/actions.html. CMI will continue to monitor this important regulatory development and Congressional acts that could invalidate or revoke the rule. We are available to assist with any inquiries you may have about the requirements of this rule.

Compliance Management International (www.complianceplace.com) is an environmental and engineering consulting firm specializing in environmental, health and safety compliance and energy management. Call Kristian Witt at 610-699-4800 x108 or e-mail at kwitt@complianceplace.com to discuss the Greenhouse Gas Tailoring Rule.