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Department of Environmental Quality Office of the Secretary Legal Affairs Division

Regulation of Greenhouse Gas Emissions and Title V Applicability (1002Pot1)

Currently, greenhouse gas (GHG) emissions are not considered to be “subject to regulation” and have not triggered the need for a Part 70 (Title V) permit, regardless of the magnitude of such emissions. However, on October 27, 2009, EPA proposed its “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule” (74 FR 55292). As a first phase, this rule seeks to establish a “major stationary source” threshold at a level of 25,000 tons per year (TPY) of carbon dioxide equivalents, or CO₂e, for both the Prevention of Significant Deterioration (PSD) and Part 70 Operating Permits programs (LAC 33:III.509 and 507, respectively).

Though there are several factors which may impact when GHGs become regulated pollutants, it is expected that the regulation of GHG emissions from mobile sources will be the driving factor. EPA is currently developing a rule to regulate GHGs from mobile sources under Title II of the Clean Air Act (74 FR 24007; May 22, 2009), the light duty vehicle rule. EPA expects to promulgate this rule by the **end of March 2010**. It is currently EPA’s position that new pollutants become subject to PSD and Title V when a rule controlling those pollutants is promulgated (and even before that rule takes effect).

Accordingly, when the light-duty vehicle rule is finalized, the GHGs subject to regulation under that rule may become immediately subject to regulation under the PSD program, meaning that from that point forward, prior to constructing any new major source or major modification that would increase GHGs by a significant amount, a source owner would need to apply for, and a permitting authority would need to issue, a permit under the PSD program that addresses these increases.

Further, in accordance with Section 503(c) of the Clean Air Act, an owner or operator of an existing source exceeding the major source applicability level for regulated GHGs would have 12 months to submit a Title V permit application if the facility did not have a Title V permit already.

The Louisiana Department of Environmental Quality, Air Permits Division, is requesting owners or operators of facilities operating under any type of air permit to notify the Air Permits Division if GHG emissions from your facility equal or exceed 25,000 CO₂e. A site-specific estimate of potential GHG emissions (in tons per year) is requested if available, but is not required. This correspondence should be directed to Bryan D. Johnston, Air Permits Division, P.O. Box 4313, Baton Rouge, Louisiana 70821-4313, and submitted by March 31, 2010. Questions may be directed to Tegan Treadaway at (225) 219-3004.

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