

December 1, 2010

Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
EPA Docket Center – Air Docket
Mail Code: 6102T
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Attention: Docket ID No. EPA-HQ-OAR-2010-0841

Re: PSD and Title V Permitting Guidance for Greenhouse Gases

Dear Administrator Jackson:

The Northeast States for Coordinated Air Use Management (NESCAUM) offer the following comments on the U.S. Environmental Protection Agency's (EPA's) guidance, entitled *PSD and Title V Permitting Guidance for Greenhouse Gases*, whose notice of availability was published on November 17, 2010 in the Federal Register [75 FR 70254-70256]. NESCAUM is the regional association of air pollution control agencies representing Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

The EPA guidance is designed to help applicants, states, and permitting agencies in successfully addressing the Clean Air Act's (CAA's) Prevention of Significant Deterioration (PSD) and title V permitting requirements for greenhouse gas (GHG) pollutants. These requirements will be phased in under the Tailoring Rule, starting on January 2, 2011 [75 FR 31514-31608].

NESCAUM has previously commented in support of the Tailoring Rule and of EPA's efforts to seek a workable balance between the additional administrative GHG permitting burdens and the sought-after environmental benefits while remaining consistent with the intent of the Clean Air Act.¹ In our previous comments, NESCAUM called upon EPA to provide timely and sufficient guidance to assist permitting authorities in implementing comprehensive and robust PSD and title V GHG permitting programs. We also called upon EPA to include in the guidance top-down best available control technology (BACT) information for the full range of sources captured under the GHG permits, as well as feasible and appropriate GHG mitigation options.

EPA has been responsive to our comments in issuing prompt GHG permitting guidance in advance of the January 2, 2011 effective date for the Tailoring Rule. As we previously stated in our comments on the Tailoring Rule, NESCAUM supports using the top-down approach in determining BACT that is consistent with past practice. This provides a process that continues longstanding policies and

¹ NESCAUM comments to U.S. EPA, *Re: Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule – Proposed Rule*, submitted to EPA Air Docket ID No. EPA-HQ-OAR-2009-0517, December 22, 2009 (available at http://www.nescaum.org/documents/nescaum-psd_title-v-tailoring-rule-final-comments-20091222.pdf).

procedures previously applied to sources of regulated PSD pollutants, hence is a process with which permitting agencies have much experience. With this consistent guidance, NESCAUM continues to foresee no unworkable burdens for permitting authorities in addressing GHG PSD and title V requirements during the initial phases of the Tailoring Rule.

While EPA believes that energy efficiency and good combustion practices will be the most likely BACT options at this time, EPA also stresses that other control technologies should be considered in the top-down approach. In addition to consideration being given to carbon capture and storage (CCS), NESCAUM commends EPA for specifically stating integrated gasification combined cycle (IGCC) should be included for consideration in BACT analyses of proposed coal-fired permit applications when it is more efficient than the proposed technology. NESCAUM and its member state agencies have previously commented in past PSD permit proceedings that IGCC should be among the options under BACT consideration.² Legislative history of the 1977 Clean Air Act Amendments clearly supports the notion that IGCC must be considered in a BACT review. The United States Congress deliberately added to the definition of BACT the phrase “innovative fuel combustion techniques” to ensure the consideration of gasification techniques – of which IGCC is one – in BACT determinations.³

In summary, we commend EPA for providing consistent guidance in analyzing BACT for GHGs in keeping with previously regulated air pollutants. EPA’s guidance has been responsive to a number of comments we submitted on the Tailoring Rule proposal, and is a timely step in developing the information basis for efficient and effective PSD and title V permitting of large GHG emission sources. The NESCAUM states reaffirm our desire to assist EPA in the smooth implementation of these GHG permitting requirements as part of the state and federal partnership towards achieving our shared environmental goals under the Clean Air Act.

Thank you for the opportunity to comment. If you or your staff has any questions on these or our previous comments, please contact Paul Miller at NESCAUM (tel: 617-259-2016).

Sincerely,



Arthur N. Marin
Executive Director

Cc: NESCAUM directors
NESCAUM Stationary Sources & Permitting Committee

² See, e.g., NESCAUM comments to U.S. EPA Region 9, *Re: Addendum to the Statement of Basis for the Desert Rock Energy Facility PSD Permit, Desert Rock Permit No. AZP 04-01, NSR 4-1-3*, March 23, 2009 (available at http://www.nescaum.org/documents/nescaum_desertrock-final-comments-20090323.pdf/).

³ 95th Congress, 1st Session (Part 1 of 2) June 10, 1977 Clean Air Act Amendments of 1977 A&P 123 Cong. Record S9421, (colloquy of Senator Huddleston of Kentucky explaining amendment to include gasification techniques in the definition of BACT).