

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the "Referenced materials" section at the end of this rule.]

[Comment: "Greenhouse gases" subject to regulation as defined in 40 CFR Part 51.166 consist of the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.]

- (A) Notwithstanding any provisions to the contrary in this chapter, on or after January 2, 2011 Title V permits for major sources emitting greenhouse gases shall be required as provided in this rule and in 40 CFR Section 70.2, as amended (76 FR 43490, July 20, 2011). For the purpose of this rule, "CO₂ equivalent emissions" and "greenhouse gases" shall have the same meaning as set forth in 40 CFR 70.2 as amended (76 FR 43490, July 20, 2011).
- (B) No initial Title V permit application shall be required for any major source that, except for its CO₂ equivalent emissions of greenhouse gases, is not a Title V source under paragraph (B) of rule 3745-77-02 of the Administrative Code if, by January 2, 2011 or twelve months after emitting more than one hundred thousand tons of CO₂ equivalent of greenhouse gases per year, whichever is later, the owner or operator of such source submits a complete application for a FEPTIO pursuant to Chapter 3745-31 of the Administrative Code for the purpose of limiting the potential to emit of CO₂ equivalent of greenhouse gases from such source to less than one hundred thousand tons per year, until twelve months after the application is withdrawn or the director takes final action on the application that does not limit the potential CO₂ equivalent emissions of greenhouse gases from such source to less than one hundred thousand tons per year.
- (C) No initial Title V permit application shall be required for any major source that, except for its CO₂ equivalent emissions of greenhouse gases and mass emissions of greenhouse gases as of July 1, 2011, is not a Title V source under paragraph (B) of rule 3745-77-02 of the Administrative Code if, within twelve months after July 1, 2011 or twelve months after commencing operation on or after July 1, 2011 of a source authorized to emit more than one hundred thousand tons of CO₂ equivalent of greenhouse gases per year and with a potential to emit of greenhouse gas mass emissions more than one hundred tons per year, whichever is later, the owner or operator of such source submits a complete application for a FEPTIO pursuant to Chapter 3745-31 of the Administrative Code for the purpose of limiting the potential to emit of CO₂ equivalent of greenhouse gases from such source to less than one hundred thousand tons per year and limiting the potential to emit of mass greenhouse gases to less than one hundred tons per year, until twelve months after the application is withdrawn or the director takes final action on the application that does not limit the potential CO₂ equivalent emissions of greenhouse gases from such

source to less than one hundred thousand tons per year and potential mass greenhouse gases to less than one hundred tons per year.

- (D) This rule and any terms or conditions of Title V permits regarding greenhouse gases shall cease to be effective if any of the following occurs:
- (1) Enactment of federal legislation depriving the administrator of authority, limiting the administrator's authority, or requiring the administrator to delay the exercise of authority, to regulate greenhouse gases under the Clean Air Act; or
 - (2) The issuance of any opinion, ruling, judgment, order, or decree by a federal court depriving the administrator of authority, limiting the administrator's authority, or requiring the administrator to delay the exercise of authority, to regulate greenhouse gases under the Clean Air Act, including but not limited to any federal court decision staying, voiding, or invalidating the effectiveness of any of the actions of the administrator set forth in the greenhouse gas endangerment finding (74 FR 66496, December 15, 2009), the motor vehicle greenhouse gas tailpipe standards (75 FR 25324, May 7, 2010), the requirement to obtain prevention of significant deterioration permits and Title V permits as provided in the greenhouse gas tailoring rule (75 FR 31514, June 3, 2010), or the final federal rule "Action to Ensure Authority to Implement Title V Permitting Programs under the Greenhouse Gas Tailoring Rule" (75 FR 82254, December 30, 2010), or finding any such action, in whole or in part, to be arbitrary, capricious, or otherwise not in accordance with law; or
 - (3) Action by the president of the United States or the president's authorized agent, including the administrator, to repeal, withdraw, suspend, postpone, or stay the amendments to 40 CFR Section 51.166 promulgated on June 3, 2010, as set forth at 75 Fed. Reg. 31606, or to otherwise limit or delay the administrator's exercise of authority to require preconstruction permitting of sources of greenhouse gas emissions.
- (E) To the extent that any action or determination listed in paragraphs (D)(1) to (D)(3) of this rule requires the permitting of any major source of greenhouse gas emissions at levels below the permitting thresholds set forth in paragraph (A) of this rule, the permitting thresholds in paragraph (A) of this rule shall remain in effect unless and until this rule is amended or rescinded.
- (F) No Title V permit shall be required due to greenhouse gas emissions from any major source under this chapter, and greenhouse gases shall not be deemed to be subject to regulation or regulated air pollutants under this chapter, except as provided in this rule. Nothing in this rule is intended to be, and nothing in this rule shall be interpreted to be, an "emission limitation" or "emission standard" within the meaning of section 302(k) of the Clean Air Act, or a "control requirement" within the meaning of section 193 of the Clean Air Act.

(G) Referenced materials. This rule includes references to certain matter or materials. The text of the referenced materials is not included in this rule. Information on the availability of the referenced materials as well as the date of, and/or the particular edition or version of the referenced material is included in this rule. For materials subject to change, only the specific versions specified in this rule are referenced. Material is referenced as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not applicable unless and until this rule has been amended to specify the new dates.

(1) Availability. The referenced materials are available as follows:

- (a) Clean Air Act. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the act as amended in 1990 is also available in electronic format at www.epa.gov/oar/caa/. A copy of the act is also available for inspection and copying at "The State Library of Ohio."
- (b) Code of Federal Regulations. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the CFR is also available in electronic format at www.access.gpo.gov/nara/cfr/. The CFR compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."
- (c) Federal Register. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." Text of the Federal Register is also available in electronic format at www.gpoaccess.gov/fr/index.html. The Federal Register is also available for inspection and copying at most Ohio public libraries and "The State Library of Ohio."

(2) Referenced materials.

- (a) 40 CFR 51.166; "Prevention of significant deterioration of air quality"; 75 FR 31606, June 3, 2010, as amended at 76 FR 43490, July 20, 2011.
- (b) 40 CFR 70.2; "Definitions"; 57 FR 32295, July 21, 1992, as amended at 66 FR 59166, Nov. 27, 2001; 69 FR 31505, June 3, 2004; 72 FR 24078, May 1, 2007; 74 FR 51438, Oct. 6, 2009; 75 FR 31514, June 3, 2010; 76 FR 43490, July 20, 2011.
- (c) Section 193 of the Clean Air Act; contained in 42 USC 7515; "General savings clause"; published January 5, 2009 in supplement II of the 2006 edition of the United States Code.

- (d) Section 302 of the Clean Air Act; contained in 42 USC 7602; "Definitions"; published January 5, 2009 in supplement II of the 2006 edition of the United States Code.
- (e) "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule"; 75 FR 31514, June 3, 2010; 76 FR 43490, July 20, 2011.

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