

December 1, 2010

VIA ELECTRONIC FILING

Air Docket
U.S. Environmental Protection Agency
Mail Code: 6102T
1200 Pennsylvania Ave., NW.
Washington, DC 20460.

ATTN: Docket ID No. EPA-HQ-OAR-2010-0841

RE: Comments of the Renewable Fuels Association on
PSD and Title V Permitting Guidance for Greenhouse Gases
Docket ID No. EPA-HQ-OAR-2010-0841

Dear Docket Clerk:

The Renewable Fuels Association (RFA) is pleased to submit the attached comments on the *PSD and Title V Permitting Guidance for Greenhouse Gases* referenced above for which EPA published a *Notice of Availability* on November 17, 2010. 75 Fed. Reg. 70,254 (Nov. 17, 2010).

RFA is the leading national trade association for America's ethanol industry. RFA promotes policies, regulations and research and development initiatives that will lead to the increased production and use of fuel ethanol. RFA membership includes a broad cross-section of businesses, individuals and organizations dedicated to the expansion of the U.S. fuel ethanol industry. RFA's 300-plus members are working to help America become cleaner, safer, energy independent and economically secure.

Please contact me at (202) 289-3835 with any questions regarding these comments.

Sincerely,



Bob Dinneen
President and CEO

cc: David Svendsgaard: svendsgaard.dave@epa.gov.

**Comments of the Renewable Fuels Association on
PSD and Title V Permitting Guidance for Greenhouse Gases**

Docket ID No. EPA-HQ-OAR-2010-0841

The Renewable Fuels Association (RFA) submits these comments on EPA's November 2010 *Notice of Availability and Public Comment Period for PSD and Title V Permitting Guidance for Greenhouse Gases*, 75 Fed. Reg. 70,254 (Nov. 17, 2010). These comments address several issues raised by the guidance on the applicability of the Prevention of Significant Deterioration (PSD) and the Title V Operating Permits Programs to greenhouse gases (GHGs) and on the development of best available control technology (BACT) requirements generally and also address several issues specific to the ethanol industry.

At the outset, we note that the two-week comment period that EPA has provided on this extensive guidance document is too short. As a result, RFA reserves its ability to file additional comments as we continue our review the document. We also note that nothing in these comments should be taken as approval or endorsement of EPA's view that GHGs can trigger PSD and Title V permitting requirements or its view that a construction ban would be imposed under Section 165(a) of the Act in states that do not implement PSD for GHGs.¹ RFA has previously filed comments objecting to EPA's inclusion of GHGs in the stationary source permitting programs under the Clean Air Act (CAA or the Act). We are commenting on the contents of this guidance because EPA has nonetheless decided to proceed with such regulation.

* * * * *

I. The Guidance Imposes Extensive, Unprecedented and Unwarranted Demonstration Requirements on Applicants.

Throughout the guidance, EPA emphasizes the demonstrations and justifications that permitting authorities must provide on "the record" in order to justify BACT determinations. The guidance repeatedly states that detailed evaluations and justifications must be included in the record for even the simplest decisions regarding available technologies and elimination of technologies that are not technically feasible or are not cost-effective. In practice, an adequate justification for many permitting authority decisions is obvious and needs little more than a few words, if any words at all. To imply that an extensive justification and explanation is required for every aspect of a permitting authority's decision simply serves to invite appeals based on the "guidance" and is simply inappropriate.

¹ We maintain that Section 165(a) is not self-executing and that states should be permitted the statutory and regulatory 3-year period to implement the Tailoring Rule.

II. PSD Applicability and Netting.

A. *EPA should proceed expeditiously to provide credit for biomass in the PSD applicability analysis.*

We continue to believe inclusion of biogenic GHG emissions in determinations of applicability of the Prevention of Significant Deterioration (“PSD”) or Title V Permitting Programs is not scientifically justified, runs afoul of accepted national and international GHG accounting methods, and is contrary to public policies enacted to encourage development of a robust renewable fuels industry in the United States. Carbon dioxide emissions resulting from the combustion, fermentation, and decay of biomass are, by nature, carbon neutral in that those emissions are offset when the biomass removes an equivalent amount of CO₂ from the atmosphere via photosynthesis during growth. Because the CO₂ released when biomass is combusted (or fermented) was recently removed from the atmosphere via photosynthesis, it adds no “new” carbon into the atmosphere. However, we recognize the debate over failing to exclude biogenic emissions from the Tailoring Rule may be beyond the scope of the November guidance, and we are hopeful it will be appropriately addressed in the forthcoming January 2011 guidance on treatment of biomass in GHG permitting regulations.²

B. *EPA should issue a supplemental rule allowing permitting authorities, when determining the applicability of PSD permitting requirements, to quantify biogenic carbon emissions using separate accounting rules that reflect the net impact of the emissions.*

In the guidance document’s discussion of PSD applicability, EPA raises the possibility of issuing a supplemental rule to “...address whether the Clean Air Act would allow the Agency and permitting authorities or permitted sources, when determining the applicability of PSD permitting requirements to sources of biogenic emissions, to quantify carbon emissions from bioenergy or biogenic sources by applying separate accounting rules for different types of feedstocks that reflect the net impact of their carbon emissions.” We encourage the agency to issue such a supplementary rule that adopts a carbon neutrality accounting rule for biomass, because combustion and fermentation of biomass results in net zero CO₂ emissions.

C. *EPA should clarify issues related to netting.*

The guidance appropriately recognizes that netting will be available for the five years preceding a change, even preceding 2011. The guidance is not explicit on but in future drafts EPA should affirm that any netting analyses would use a baseline of ten years preceding changes in the five years preceding the project currently being analyzed. EPA should also clarify that prior projects that improved efficiency can be used for netting, including energy efficiency

² RFA is attaching the comments submitted on EPA’s July 2010 Call for Information.

measures that involve process and work practice improvements. Such measures are permanent and should be encouraged by giving them credit in the netting process.³

- D. EPA should involve the industry in developing emissions estimation methods and should ensure that there is not retroactive liability for sources that make good faith estimates while emissions estimation methods are developed.*

A critical aspect of determining applicability and determining compliance with any emission limits established for BACT or for synthetic minor source limits is the determination of emissions. Appendix I of the guidance document identifies resources for GHG emissions estimation for various emissions sources. EPA notes that broadly accepted GHG estimation methods are not available for some biogenic CO₂ sources, including ethanol fermentation. The guidance further indicates that EPA is currently researching and developing procedures to estimate emissions from these sources.

As EPA develops emissions estimation approaches for the ethanol industry, the Agency should involve ethanol producers in the development of simple and economical estimation methods for CO₂ emissions from ethanol fermentation. Any methodologies adopted must be simple, transparent, and economical for producers to adopt. EPA should consider the approach currently being used by the Iowa Department of Natural Resources since that method is currently in place and is relatively straightforward and simple. Until methods are published, EPA recognizes that sources must make applicability determinations and set permit limits without that information. For determinations made and limits established during this period, producers that make good faith estimates of their emissions based on factors currently available should not be subject to retroactive liability once EPA develops its own emission factors. Such an approach is consistent with the approach that EPA has taken with respect to PM_{2.5} estimation methods pending development of a test method for PM_{2.5} emissions.

III. PSD “Definition of Source” Issues.

- A. EPA should clarify that non-emitting units are not subject to BACT and that only emissions units being physically or operationally changed are subject to BACT.*

The guidance states that when reviewing a PSD permit application for the construction of a new (*i.e.*, greenfield) facility that creates its own energy (thermal or electric) for its own use, EPA recommends that permitting authorities consider not only technologies or processes that maximize the efficiency of the individual emitting units, but also process improvements that impact the facility’s energy utilization assuming it can be shown that efficiencies in energy use by the facility’s higher-energy-using equipment, processes or operations could lead to reductions in emissions from the facility. Guidance at 31. This statement, while limited to greenfield facilities that will generate their own energy (as opposed to those that will use off-site energy where the emissions would be off-site and not within the scope of the BACT analysis), is not consistent with prior guidance. It inappropriately suggests that BACT covers non-emitting units.

³ Some have suggested that energy management measures cannot be credited in netting because they should not be considered “permanent.” However, such a view would be inconsistent with the Agency’s stated position in this very guidance that energy management systems can be considered BACT.

BACT applies to the emissions unit, not the source, and the guidance should be clear on this point.

The guidance appropriately recognizes that for modifications, BACT only applies to emissions units being physically or operationally changed.⁴ Guidance at 25. For example, in a case where a company adds a new production unit to an existing plant and that addition “debottlenecks” an existing boiler, BACT would apply only to the emissions of the new unit and not to the boiler. However, EPA appears to believe this is a matter of “interpreting” the regulations. Guidance at 24. To the contrary, this is what the regulations plainly state and is not a matter of “interpretation.” *See, e.g.*, 40 C.F.R. § 52.21(j)(3). Any other approach would also be inconsistent with the regulatory definition of emissions unit in Section 52.21(b)(7), which speaks to the *emitting* portions of a process and other elements of the regulations that indicate EPA interprets the statutory language as limiting BACT to the units being physically or operationally changed, (*see, e.g.*, § 52.21(b)(11)’s “begin actual construction” definition) This position is further memorialized in the *1990 Draft NSR Manual* (p. B.4) and in a number of applicability decisions issued over the past 30 years. *See, e.g., Memorandum from Edward Reich, Director Stationary Source Compliance Division Office of Air Quality Planning and Standards, to Michael M. Johnston, Chief Air Operations Section - Region X, regarding PSD Applicability Pulp and Paper Mill* (July 28, 1983).⁵ And, defining the source for which BACT should be determined to include more than the emissions unit(s) being physically or operationally changed would be inconsistent with the statutory language applying BACT to the “proposed facility” and would often subject the applicant to evaluating control options beyond the applicant’s control.

This regulatory history is why the CAAAC Climate Change Work Group concluded that “each new or modified emission unit subject to PSD is required to undergo a BACT review.” The guidance goes on to emphasize that any modification BACT review for “energy efficiency” would consider “overall energy efficiency of the source or modification – through technologies, processes and practices at the emitting unit.” Guidance at 22. Any future revisions of the guidance should emphasize that such improvements would be targeted at the emitting unit being changed and that permitting authorities under the plain language of Section 52.21’s BACT definition must implement the regulations as written – applying BACT – appropriately – to the changed emission units only.⁶

Such an approach is important also as EPA imposes BACT on GHGs, since expanding the scope of BACT will significantly increase the administrative burdens of the program – far beyond the estimates that EPA provided in its PSD Tailoring Rule. Moreover, making such a significant change to historical BACT would result in “leakage” to analysis of BACT for other pollutants, such as NO_x, CO, SO₂, and VOC. It will be difficult to draw a principled distinction between BACT for GHGs and BACT for other pollutants under such an approach, leading to a

⁴ EPA cites the preamble to the 1980 PSD rule, explaining that “BACT applies only to the units actually modified.” 45 FR 52676, 52681 (Aug. 7, 1980).

⁵ *See also Masonite Corporation*, 5 EAD 551, 557-8 (EAB 1994) (requiring permitting authority give separate “consideration to each individual emissions unit or pollutant emitting activity.”).

⁶ As a policy matter, this limitation makes sense. Sources would be far less likely to improve efficiency at a single unit if such an improvement could trigger BACT for an entire facility or even an entire process.

far greater burden for BACT analyses for criteria pollutants and dramatically changing the scope of PSD requirements as they exist today.⁷

The guidance correctly recognizes that EPA cannot regulate as “BACT” the efficiency of non-emitting units in order to reduce the use of electricity from the local utility. EPA states that it “has historically interpreted the BACT requirement to be inapplicable to secondary emissions, ... that may occur as a result of the construction or operation of a major stationary source but do not come from the source itself.” EPA appears to imply that this interpretation is discretionary – it is not. EPA cannot require a source to reduce the draw on the local utility because the source subject to BACT is the emitting source that triggers PSD. Until EPA is ready to adopt an approach to PSD that redefines the entire process and encourages the overall efficiency of the energy production system, EPA cannot impose “BACT” based on emissions that occur offsite.⁸

B. BACT cannot change the proposed design of the source.

A point of significant discussion during the development of both the Phase I and Phase II Climate Change Work Group reports was the ability of EPA and permitting authorities to redefine the source and more importantly, the extent to which they may or may not be compelled to change the design proposed by the applicant to achieve BACT. RFA is concerned with the approach in the guidance to this topic because it actually provides little in the way of guidance, creating further uncertainty for regulators and the regulated community. On the one hand, the guidance appropriately states that the list of control options for BACT has limits and “need not necessarily” include different types of processes that would “fundamentally redefine” the nature of the applicant’s proposed source. Guidance at 27. However, on the very next page, the guidance states that this “approach does not preclude a permitting authority from considering options that would change aspects (either minor or significant) of an applicants’ proposed facility design in order to achieve pollutant reductions that may or may not be deemed achievable after further evaluation at later steps of the process.” Guidance at 28. The guidance goes on to state that the CAA would not prohibit “fundamentally redefining the source” and would give permitting authorities the discretion to conduct a broader BACT analysis “if they desire.” Guidance at 28.

Section 165(a)(4) states that BACT applies to the “proposed facility.” The proposed facility is that contained in the application, not one that the permitting authority may desire. As found by the Climate Change Work Group, the case law states that permitting authorities may not “redefine” the source. With respect to this question, the guidance states this “is ultimately a question of degree that is within the discretion of the permitting authority.” Guidance at 28. EPA follows quickly with “any decision to exclude an option on ‘redefining the source’ grounds must be explained and documented in the permit record, especially where such an option has been identified as significant in public comments.” *Id.*

Given the focus of Section 165(a)(4) on the “proposed facility” and the applicable case law, there is strong presumption favoring the freedom of each applicant to choose the basic

⁷ Expanding BACT would also require development of an emission limit for the BACT-subject unit that relates to another piece of equipment that is not even being changed. Such an approach, if even possible, would require further analysis and guidance than EPA has offered here.

⁸ EPA should consider providing *compliance determination flexibility* that considers off-site emissions.

production equipment it thinks appropriate for the particular business objective. The guidance suggests that the burden lies with the applicant to justify its choice fully and in great detail in the original application, when the statute and case law indicate that it is the permitting authority's responsibility to make the BACT determination. EPA should make it clear in the guidance that, once an applicant proposes in good faith to use a particular set of production equipment, the burden lies with the permitting authority or commenters to press for and justify a change in such basic design.

Also, RFA has significant concern that the guidance's broad language regarding permitting authority "discretion" will be used to force changes in project design for non-GHG pollutants – changes that differ from the proposed source offered by an applicant. The justifications required for a source to obtain a "complete application" much less a BACT determination for which EPA would consider the record to be adequate offer potential for significant delay in the permitting process. For example, the guidance states that the applicant must explain why a particular configuration of its source is "necessary to achieve the fundamental business objective for the proposed construction project." A source should not be forced to justify why an existing plant is designed the way it is to make a modification. In addition, sources should not be put in the position of defining the "fundamental business purpose" of every aspect of a project in order to be considered to have a complete application. While the guidance is correct that the terms "fundamental business purpose" and "basic design" have played a key role in Environmental Appeals Board decisions on redefining the source, the approach to permitting should be based on an applicant submitting its "proposed project" and responding to appropriate permitting authority inquiries if there is a concern that the applicant has not considered the full range of available BACT options. Future revisions of the guidance should make clear that an application is complete based on analysis of the proposed project. Permitting authorities always retain the discretion to ask for more information or to request a source to analyze a particular control option to determine if it would "redefine" the proposed source.

EPA states that when a permit applicant has incorporated a particular fuel into one aspect of the project design (such as startup or auxiliary applications), this suggests that a fuel is "available" to a permit applicant. In such circumstances, greater utilization of a fuel that the applicant is already proposing to use in some aspect of the project design should be listed as an option in Step 1 unless it can be demonstrated that such an option would disrupt the applicant's basic business purpose for the proposed facility. Guidance at 29. This statement is incorrect. Just because a particular fuel is used to startup a piece of equipment does not mean that sufficient quantities of that fuel are available to run that piece of equipment during full operation. Availability of a particular fuel could be limited by the size of the pipeline to the facility or the availability of the fuel in a particular region or during a particular time of year. Some facilities may only have sufficient supply of a particular fuel to use that fuel during startup. Moreover, facilities typically burn fuel generated on site or a less expensive fuel during normal operation if a different fuel is used for startup *versus* normal operation. For example, while a fluidized bed combustion boiler might be able to burn both coal and biomass in the abstract, the supply of biomass might not be sufficiently reliable or otherwise adequate because of local circumstances.

As EPA notes, any consideration of an option that changes the “*primary fuel*” that a source would use is improper. And this dramatically expands the scope of BACT review at precisely the moment that it is most important to retain its focus. EPA needs to clearly state, without equivocation, that requiring a switch in fuels constitutes an improper redefinition of a source and is prohibited.

IV. Scope of Technologies to Be Considered.

A. EPA’s evaluation of Step 1 Available Technologies is overly broad.

While the guidance recognizes that permitting authorities have significant discretion to consider or not consider technologies as “available,” it also speaks very broadly on the range of options a permitting authority has. This gives the overall impression that this process will be as unwieldy and uncertain as many have feared. The guidance describes Step 1 of the BACT process very broadly, requiring many technologies to be included before any can be eliminated, even when it is obvious that they should not be considered. In this way, EPA has missed a key opportunity to insert an element of manageability into the BACT determination process at a time when manageability is critically needed. The guidance’s approach of eliminating nothing until the very last step of the BACT process simply serves to make GHG BACT an unmanageable process that will discourage sources from undertaking projects that reduce emissions and improve efficiency.

EPA states that a control technology is “available” if it has a “potential for practical application” to the unit/pollutant combination. Guidance at 30. The guidance, however, fails to fully define the test of whether a control technology has “potential for practical application.” While EPA’s *1990 Workshop Manual* does use that test, it also qualifies it with the following sentence: “Technologies which have not yet been applied to (or permitted for) full scale operations need not be considered available; an applicant should be able to purchase or construct a process or control device that has already been demonstrated in practice.”

B. CCS is not available for ethanol production.

Of particular concern to the ethanol industry is EPA’s statement that carbon capture and sequestration (CCS) is an “available” control technology for ethanol production facilities. Guidance at 34. This is simply not the case. EPA’s criteria for determining “availability” includes whether the technology has the “potential for practical application.” Based on the fact that the potential for practical application of CCS to ethanol production facilities is unknown, we disagree that CCS is “available” and we believe CCS should not be considered in Step 1 of the BACT Analysis for ethanol production facilities. It is currently unclear how or whether CCS can be applied by ethanol producers to mitigate CO₂ emissions, and the technical and economic feasibility of this technology is unknown. To date, the ethanol industry’s only experience with CCS is a pilot project that is still in the development stages. Clearly CCS has not been applied to full scale operation in the ethanol industry (nor other industries) and it is clear that an applicant is not currently in a position to purchase or construct a demonstrated in practice CCS system for an ethanol facility. Until this pilot project is completed and more is known about the technical and economic feasibility of CCS for ethanol production facilities, we believe it should not be

considered “available” for the purposes of BACT Step 1. EPA should delete this reference from the guidance.

V. Weighing BACT Factors and Determining BACT Limits.

A. Permitting authorities should take into consideration the carbon neutrality of biomass in determining BACT.

It is indisputable that CO₂ emissions resulting from the combustion, fermentation and decay of biomass are, by nature, carbon neutral in that those emissions are offset when the biomass removes an equivalent amount of CO₂ from the atmosphere *via* photosynthesis during growth. Because the CO₂ released when biomass is combusted (or fermented) was recently removed from the atmosphere *via* photosynthesis, it adds no “new” carbon into the atmosphere. For annual crops, this atmospheric carbon recycling process occurs every year with each new harvest.

We agree with EPA that it is appropriate for permitting authorities to consider at this stage of the BACT analysis the benefits that may accrue from the use of biomass for energy generation when conducting BACT analyses for GHG. Additionally, we agree that recognition of these benefits may lead permitting authorities to determine that “...certain types of biomass by themselves are BACT for GHGs.”

B. Permitting authorities should take into consideration the tradeoffs between criteria pollutants and GHGs.

The guidance appropriately recognizes that permitting authorities will have to make decisions based on relative increases/decreases of GHGs and criteria pollutants. Guidance at 43. For example, efficiency improvements may reduce GHG emissions but could lead to increased NO_x emissions. Permitting authorities should be able to eliminate a control option based on the collateral impacts, given the area’s particular air quality needs.

C. Energy Management Systems are not BACT and impose prospective requirements not available or proven cost effective at the time of permit issuance.

The guidance suggests that a permit can also include conditions requiring the use of Environmental Management Systems (EMS) focused on energy efficiency as part of BACT. EPA should delete this sentence from the guidance. Guidance at 47. The use of a “system” is not BACT and creates the potential for a moving BACT target with unbounded costs in the future. EPA’s statement that “a candidate might be a factory with many different pieces of equipment and processes that use energy” is incorrect because it is applying BACT not only to non-emitting units but apparently to units that are not undergoing a physical or operational change. BACT cannot be applied to non-emitting units or to emitting units that are not being changed as a part of a modification project. To the extent it is included in the guidance at all, it must be limited to new units and cannot require future undetermined steps to be taken as BACT.

BACT must be technology that is “available” when the project is undertaken, not future steps. Otherwise, businesses will not be able to properly evaluate whether a project is feasible

from a business standpoint. The guidance's suggestion that in "addition to a BACT emissions limit on the boiler providing energy, the permit could also lay out a requirement to implement an EMS along with a requirement that all suggested actions that result in net savings have to be implemented." Such a requirement is inconsistent with the availability requirement and provides an unbounded scope to BACT. Facilities should not be required to implement actions merely because they result in net savings in energy, as this test does not consider the capital available to make these changes and the different metrics that facilities use to analyze and justify spending decisions. BACT requires consideration of cost effectiveness and this statement reads that requirement entirely out of the statute. Furthermore, there are other typically over-riding, criteria that are not always quantifiable as "costs" that are used in decision-making when companies are considering how to deploy their limited capital funds. These include safety, reliability, customer-imposed quality or other criteria and environmental compliance considerations. In addition, there may be other strategic, non-energy projects that have the same return on investment as the projects identified by an energy assessment that EPA would be effectively prohibiting by requiring facilities to use capital on energy projects instead. Not every energy efficiency measure makes sense to implement simply because an auditor suggests it. Any such requirement would illegally delegate BACT determination authority, would ignore the statutory and regulatory requirements for cost, energy and environmental considerations, and would fail to meet EPA's requirements for replicable and enforceable limits.

D. EPA should not impose 30-day or 365-day averaging periods.

EPA suggests that it would be justifiable for a permitting authority to set a limit on GHG emissions in terms of a 30-day or a 365-day average. Guidance at 47. First, there is no basis for using 30-day averaging, since there is no correlation in any NAAQS or PSD increment that would justify such averaging. Moreover, the guidance's reference to a 365-day average creates a change from the historic expression of annual limits as 12-month rolling sums. A 365-day roll is far more stringent than a 12-month rolling sum and is a departure from longstanding EPA practice and guidance regarding enforceability. There is no basis for including it here. Moreover, even a 12-month rolling sum is too short an averaging period for GHGs. EPA's own climate change science indicates, if anything, that longer averaging periods would provide an appropriate connection between GHG emissions and the impacts of concern since climate change is a long-term, not a short-term, concern.

E. EPA should expand availability of the innovative control technology waiver.

RFA agrees with the recommendations of the Climate Change Work Group that EPA interpretations of the innovative control technology (ICT) waiver provisions have hindered use of the waiver and introduction of innovative control technologies. They also support steps to adopt the improvements in the proposed 1996 regulations but believe that EPA must provide for a longer period for technologies to become demonstrated in order to encourage innovation. The Climate Change Work Group agreed that the ICT waiver provision has failed to provide incentives to permit applicants to apply innovative, new technologies for pollution control as part of the PSD permitting process and, without some change, is unlikely to provide the incentive or encouragement of innovative control technologies for GHGs. They identified the following three issues:

1. the very limited availability of the waiver for a given technology and application under current EPA policy,
2. the time frame within which the owner/operator has to meet the BACT limit under any waiver, and
3. the degree of risk borne by the applicant relying on a new or innovative technology to achieve an emissions limit, should the technology fail and an entirely different control technology be required.

EPA should take steps to finalize the 1996 proposal, consistent with comments submitted on that proposal, to formalize the availability of a more flexible waiver provision. Moreover, EPA should recognize that the individual permit decision in one case (for Kamine Corporation) does not bind the Agency for other permit decisions with different facts from that original decision.

VI. Title V

With respect to Title V timing, EPA has appropriately indicated that sources newly subject to Title V permitting requirements solely due to GHG emissions levels would have up to 12 months from July 1, 2011, to submit an administratively complete permit application. RFA agrees with EPA that there are limited if any “applicable requirements” for Title V at this stage for GHGs. The only potential applicable requirement is a limit in a PSD permit or in a minor NSR permit should a source choose to become a “synthetic minor” for GHGs. Since no such limits have been issued yet, there should be no need for sources to identify their GHG emissions in their permit applications. As EPA explained in White Paper No. 1,⁹ emissions information in permit applications is only needed to determine applicable requirements. The guidance’s statement that it is “possible” that some sources will need to address GHG-related information in their applications even if they will ultimately not have any GHG-specific applicable requirements in the permit is incorrect. It is based on the assumption that permitting authorities will need this information to determine applicable requirements. Under the Title V program, sources identify their applicable requirements and provide emissions information needed to determine those requirements, *e.g.*, if a source claims it is not subject to a requirement because its emissions are too low, then emissions information is needed. Otherwise, emission estimates are not required. Should the permitting authority have a question about applicable requirements, it may ask for the information, but the information is not required in the first instance in the application. The guidance should be revised to make this point clear. Finally, RFA agrees that the GHG Reporting Rule is not a part 70 applicable requirement and should not be included in Title V permits.

Conclusion

RFA looks forward to working with EPA on the biomass-related issues and urges EPA to streamline and minimize the burdens associated with PSD and Title V for GHGs.

⁹ White Paper for Streamlined Development of Part 70 Permit Applications (July 10, 1995), available at <http://www.epa.gov/ttn/oarpg/t5/memoranda/fnlwtppr.pdf>.