

Just a quick post to point you to the [fact sheet](#) on the final tailoring rule, the [final rule](#) itself, and an early [Greenwire piece](#) on its content. Sure enough, as Administrator Jackson had been [signaling for some time](#), the final rule significantly increases the GHG emission thresholds that will trigger New Source Review / PSD coverage, as compared with thresholds put forth in the proposed rule issued last fall.

Here's the summary:

-For the first five months of the program (Jan. 2 - June 30, 2011): Only those facilities that are already subject to PSD requirements for *other* pollutants are covered for their greenhouse gas emissions; and, of those covered sources, only those that are new or modified so as to increase their GHG emissions by at least 75,000 tons/yr will require PSD permits for those GHG emissions. I don't know how many facilities are likely to be affected in this first phase—seems like a small pool.

-From July 2011 through June 2013: The program will expand to include some facilities never before regulated under the PSD program, and will require PSD permits for (1) new construction projects with GHG emissions of at least 100,000 TPY, as well as (2) modifications of existing facilities that increase emissions by at least 75,000 TPY. EPA estimates that “[t]here will be approximately 900 additional PSD permitting actions each year triggered by increases in GHG emissions from new and modified emission sources” in this phase.

-In 2011, EPA will begin a rulemaking process to assess when and whether to lower these thresholds, which are clearly designed to capture only the very largest sources.

As many have discussed (including [Ann](#) and [Sean](#) here at LP), these permitting thresholds are at odds with the statutorily-set triggers for PSD permitting (set at 100/250 TPY of regulated pollutant), and it remains to be seen whether EPA's justifications for straying from the statute will be challenged and stand up in court.

And, of course, all of this could become moot quickly if the Senate climate bill introduced yesterday by Kerry and Lieberman has legs (ha). That bill would amend the Clean Air Act to prevent the regulation of greenhouse gases under these New Source Review / PSD provisions entirely.

