



Climate Change and Clean Technology Blog

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The EPA Uses the Clean Air Act to Propose New Rules Intended to Reduce GHG Emissions from Large Emitters

In a move certain to fuel the debate over climate change legislation in Congress, the U.S. Environmental Protection Agency (the "EPA") recently revealed a new proposal to regulate greenhouse gas ("GHG") emissions from power plants, factories and refineries, which are considered large GHG emitters. The regulations being developed would, for the first time, require the use of best available control technology ("BACT") to compel large emitting sources to curb GHG emissions whenever a new facility is constructed or a major modification takes place. The proposal would require large industrial facilities that emit at least 25,000 tons of GHGs a year to obtain construction and operating permits. Small businesses such as farms, restaurants, and many other types of small facilities would not be included in these requirements. The EPA's proposal signals that it will act under the existing authority provided by the Clean Air Act, meaning that if Congress does not pass a climate change bill, the EPA will act on its own to curb emissions.

The EPA stated that large sources are responsible for 70 percent of GHG emissions, mainly carbon dioxide from burning fossil fuels, that are released in the U.S. "By using the power and authority of the Clean Air Act, we can begin reducing emissions from the nation's largest greenhouse gas emitting facilities without placing an undue burden on the businesses that make up the vast majority of our economy," EPA Administrator Lisa Jackson said. "We know the corner coffee shop is no place to look for meaningful carbon reductions."

The proposed rule addresses six GHGs: carbon dioxide, methane, nitrous oxide, hydro fluorocarbons, perfluorocarbons and sulfur hexafluoride.

Earlier this year, the Obama administration announced that it would start developing the first-ever GHG emissions standards for cars and trucks. Those regulations, which would take effect in 2010, require Clean Air Act permits for stationary sources emitting GHGs. The new proposal focuses these permitting programs on the largest facilities.

Industry groups immediately questioned the agency's position since the Clean Air Act typically covers any facility releasing more than 250 tons a year of a recognized pollutant. That statutory threshold would require more facilities to fall under the new regulations than proposed by the EPA.

The EPA estimates that 400 new sources and modifications to existing sources would be subject to review each year for GHG emissions. Further, the EPA said that approximately 14,000 large sources (sources emitting 25,000 tons of GHGs per year) would need to obtain operating permits that include GHG emissions.

The EPA is also requesting comment on its previous interpretation of when certain pollutants, including carbon dioxide and other GHGs, would be covered under the permitting provisions of the Clean Air Act. The EPA has acknowledged that a different interpretation could mean that large facilities would need to obtain permits prior to the finalization of the rule regulating GHG emissions.

The proposed rules and more information are available at: <http://www.epa.gov/nsr/actions.html>.

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