



Climate & Air Quality Committee

April 29, 2009

Implications of EPA Mandatory Reporting Rule & Endangerment Finding

Issue: Implications of EPA Mandatory Reporting Rule and Endangerment Finding

Recommendation: None. This item is for information only.

Discussion: Staff will discuss the local and state implications of the EPA Mandatory Reporting Rule for Greenhouse Gases and the EPA Endangerment Finding. Fact sheets on both of these are attached. To summarize, the Mandatory Reporting Rule sets up a national reporting system for greenhouse gases for sources that emit over 25,000 metric tons per year. These sources generally already have federal Title V permits for criteria pollutants (like particulate matter, nitrous oxide, etc.).

The Endangerment Finding is the end result of a legal and regulatory process starting with legal action early in this decade and resulting in the Supreme Court Case *Massachusetts v. EPA*, 549 U.S. 497 (2007). The EPA was required in this case to make a determination if greenhouse gases are a danger to human health and welfare. The EPA Administrator is proposing to make an affirmative finding the finding is out for a 60 day public review process.

More information can be found on the Mandatory Reporting Rule at <http://www.epa.ca.gov/climatechange/emissions/ghgrulemaking.html> and on the Endangerment Finding at <http://epa.gov/climatechange/endangerment.html>.

Approved by:

Mike McKeever
Executive Director

MM:le

Attachments

Key Staff: Gordon Garry, Director of Research & Analysis, (916) 340-6230

PROPOSED MANDATORY GREENHOUSE GAS REPORTING RULE

FACT SHEET

ACTION

- On March 10, 2009, the U.S. Environmental Protection Agency (EPA) issued a proposed rule for mandatory greenhouse gas (GHG) reporting from large GHG emissions sources in the United States. The proposed rule was published in the *Federal Register* April 10, 2009, and can be found on www.epa.gov/climatechange/emissions/ghgrulemaking.html. The public comment period is open until June 9, 2009, 60 days following publication in the *Federal Register*.

BACKGROUND

- EPA developed a proposed rule that would require mandatory reporting of GHGs from large emission sources in the United States, as required by the FY2008 Consolidated Appropriations Act.
- This is a reporting rule to collect accurate and comprehensive emissions data to inform future policy decisions.

REPORTING REQUIREMENTS

- In general, the proposed rule calls for suppliers of fossil fuels or industrial greenhouse gases, manufacturers of vehicles and engines, and facilities that emit 25,000 metric tons or more of GHG emissions per year to submit annual reports to EPA
- Generally, the proposed threshold for reporting is 25,000 metric tons or more of carbon dioxide (CO₂) equivalent per year
- 85-90% of total national U.S. GHG emissions, from approximately 13,000 facilities, would be covered by the proposed rule
- The first annual report would be submitted to EPA in 2011, for the calendar year 2010, except for vehicle and engine manufacturers, which would begin reporting for model year 2011
- Most small businesses would fall below the 25,000 metric ton threshold and would not be required to report GHG emissions to EPA
- Most emission sources from the agriculture sector would not be covered by the rule, with the exception of livestock operations with GHG emissions from manure management systems that meet or exceed the threshold of 25,000 metric tons. EPA modeling estimates that fewer than 50 very large livestock operations would meet this threshold.
- EPA would be responsible for verifying the data
- EPA estimates the average cost of reporting under this proposed rule would be approximately \$0.04 per metric ton
- Reporting methods for the proposed rule were built extensively upon existing GHG reporting programs and guidance documents including:
 - National programs such as DOE's 1605b, EPA's Acid Rain Program, voluntary

- partnerships such as Natural Gas STAR, and the U.S. Greenhouse Gas Inventory
- State and regional programs such as The Climate Registry, The Regional Greenhouse Gas Initiative, and GHG programs in States such as California, New Mexico, and New Jersey
 - Protocols developed by nongovernmental organizations such as World Resources Institute/World Business Council for Sustainable Development
 - Programs from industrial trade organizations, such as the American Petroleum Institute and the Cement Sustainability Initiative
 - International programs, including the Intergovernmental Panel on Climate Change, the European Union's Emissions Trading System, and the Environment Canada reporting rule

PUBLIC INVOLVEMENT

- EPA staff held more than 100 meetings with over 250 stakeholders including trade associations, industries, states, and state- and regional-based groups during the development of the proposed rule.
- The public will be able to comment on the proposed rule for 60 days following publication in the *Federal Register*, until June 9, 2009.
- EPA conducted two public hearings: April 6 and 7, 2009, at the EPA Potomac Yard Conference Center, Arlington, VA; and April 16, 2009, at the Sacramento Convention Center, Sacramento, CA.

NEXT STEPS

- The preamble and proposed regulatory text was published in the *Federal Register* and is available at www.regulations.gov.

MORE INFORMATION

- Information will be available electronically at www.regulations.gov, EPA's electronic public docket and comment system. The Docket ID number is: EPA-HQ-OAR-2008-0508. Instructions on submitting comments can be found in the preamble and on the EPA web site (www.epa.gov/climatechange/emissions/ghgrulemaking.html)
- Information is also available at the EPA Docket Center (EPA/DC) Public Reading Room. Please call 202-566-1744 between the hours of 8:30 A.M. and 4:30 P.M. Eastern Standard Time for more information.
- Information may also be found at:
www.epa.gov/climatechange/emissions/ghgrulemaking.html.

For more information contact GHGMRR@epa.gov or 1-877-GHG-1188.

Overview of EPA's Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act



April 17, 2009

Today the Administrator is proposing to find that greenhouse gases in the atmosphere threaten the public health and welfare of current and future generations. The Administrator is also proposing to find that greenhouse gas emissions from new motor vehicles and new motor vehicle engines are contributing to the concentration of greenhouse gases in the atmosphere. This action is being taken under section 202(a) of the Clean Air Act. The action, if finalized, would not itself impose any requirements on industry or other entities.

Action

Today, the Administrator signed a proposal with two distinct findings regarding greenhouse gases under section 202(a) of the Clean Air Act:

- **Endangerment Finding:** The Administrator is proposing to find that the current and projected concentrations of the mix of six key greenhouse gases—carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆)—in the atmosphere threaten the public health and welfare of current and future generations.
- **Cause or Contribute Finding:** The Administrator is further proposing to find that the combined emissions of CO₂, CH₄, N₂O, and HFCs from new motor vehicles and motor vehicle engines contribute to the atmospheric concentrations of these key greenhouse gases and hence to the threat of climate change.

Background

On April 2, 2007, in *Massachusetts v. EPA*, 549 U.S. 497 (2007), the Supreme Court found that greenhouse gases are air pollutants covered by the Clean Air Act. The Court held that the Administrator must determine whether or not emissions of greenhouse gases from new motor vehicles cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision. In making these decisions, the Administrator is required to follow the language of section 202(a) of the Clean Air Act. The Supreme Court decision resulted from a petition for rulemaking under section 202(a) filed by more than a dozen environmental, renewable energy, and other organizations.

Scientific Basis

- After a thorough examination of the scientific evidence on the causes and impacts of current and future climate change, as well as other effects of greenhouse gases, the Administrator concludes that the science compellingly supports a positive endangerment finding for both public health and welfare. In her decision, the Administrator relied heavily upon the major findings and conclusions from recent assessments of the U.S. Climate Change Science Program and the Intergovernmental Panel on Climate Change.
- The Administrator is proposing this endangerment finding after considering both observed and projected future effects of climate change, key uncertainties, and the full range of risks and impacts to public health and welfare occurring within the United States. The scientific

evidence concerning risks and impacts occurring outside the United States, including risks and impacts that can affect people in the United States, provides further support for this proposed endangerment finding.

- Among the key scientific findings supporting the Administrator's proposal are:
 - Concentrations of greenhouse gases are at unprecedented levels compared to the recent and distant past. These high concentrations are the unambiguous result of human emissions and are very likely the cause of the observed increase in average temperatures and other climatic changes.
 - The effects of climate change observed to date and projected to occur in the future include, but are not limited to, more frequent and intense heat waves, more severe wildfires, degraded air quality, more heavy downpours and flooding, increased drought, greater sea level rise, more intense storms, harm to water resources, harm to agriculture, and harm to wildlife and ecosystems. The Administrator considers these impacts to be effects on public health and welfare within the meaning of the Clean Air Act.
 - Emissions of greenhouse gases from on-road vehicles regulated by section 202(a) of the Clean Air Act contribute to the climate change problem. These sources are responsible for 24 percent of total U.S. greenhouse gas emissions, and more than 4 percent of total global greenhouse gas emissions.

Public Involvement and Further Information

EPA will post a pre-publication copy of the signed package, including both the Administrator's proposal and the Technical Support Document (discussing the underlying science and greenhouse gas emission data) on the EPA Web site at: www.epa.gov/climatechange/endangerment.html. The Administrator's proposal will be available at www.regulations.gov after it is published in the *Federal Register*.

The materials in the docket for this rulemaking will also be available electronically at www.regulations.gov. The Docket ID number is: EPA-HQ-OAR-2009-0171. Docket materials are also available in hard copy at the EPA Docket Center (EPA/DC) Public Reading Room. Please call 202-566-1744 between 8:30 a.m. and 4:30 p.m. Eastern Standard Time for more information.

The public will be able to comment on the proposed endangerment and cause or contribute findings for 60 days following publication in the *Federal Register*.

EPA plans to conduct two public hearings: May 18, 2009, at the EPA Potomac Yard Conference Center, Arlington, VA; and May 21, 2009, at the Bell Harbor International Conference Center in Seattle, WA.

Additional information is available at: www.epa.gov/climatechange/endangerment.html.

The Web site for this action with additional information can be found at: www.epa.gov/climatechange/endangerment.html.

This fact sheet is intended to assist the public to understand key aspects of the proposal. However, this fact sheet is not intended to be a substitution for the proposal itself. Visit EPA's website at the address above for more information, including the proposal, or go to www.regulations.gov to access the rulemaking docket (EPA-HQ-OAR-2009-0171) which will be opened when the proposal is published in the Federal Register. For questions that cannot be answered through the Web site or docket, call 202-343-9927.