

New Federal Initiatives Project

**Mandatory Greenhouse Gas Reporting:
The GHG Registry**

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April 13, 2009



*The Federalist Society
for Law and Public Policy Studies*

www.fed-soc.org

Mandatory Greenhouse Gas Reporting: The GHG Registry

On March 10, 2009, the Environmental Protection Agency (EPA) Administrator, Lisa Jackson, signed proposed regulations that would mandate the annual reporting of greenhouse (GHG) gas emissions by 13,000 major private sources. The regulations would cover all sectors of the economy. These reporting regulations are an important step towards cap-and-trade regulation.

I. *Statutory History: A Timeline*

2007: The FY 2008 Omnibus Appropriation Bill became law. A provision in the bill, introduced by Senators Boxer and Feinstein, provided \$3.5 million for the EPA to establish a registry that would mandate economy-wide GHG reporting. The provision required a proposed rule within nine months of the bill's enactment and final regulations within 18 months of enactment.

2008: According to the Washington Post [CITATION], the Office of Management and Budget (OMB) objected to a rule developed by the Bush Administration because the EPA cited only the Clean Air Act (CAA) as providing the necessary statutory authority.

2009: The current rule is proposed. The EPA points to the FY 2008 omnibus appropriations bill and the CAA (again) as providing the necessary statutory authority. Objections have been raised arguing that the only authority cited for the rule should have been the FY 2008 Omnibus Appropriations Bill itself. In citing the CAA as authority, these new reporting rules could add support to the contention that GHGs must face emissions controls economy-wide.

II. *Who Has to Report Under the Rule?*

- Fossil Fuel Suppliers
- Industrial Gas Suppliers
- Manufacturers of Vehicles and Engines
- Facilities That Emit 25,000 or More Tons of GHG Emissions per Year -- Equivalent to 58,000 Barrels of Oil Consumed Annually

According to the EPA, 85-90 percent of all GHG emissions would be covered, from about 13,000 facilities.

III. *What Gases Are Covered?*

- Carbon Dioxide (CO₂)
- Methane (CH₄)
- Nitrous Oxide (N₂O)
- Hydrofluorocarbons (HFC)
- Perfluorocarbons (PFC)
- Sulfur hexafluoride (SF₆)
- Other fluorinated gases including nitrogen trifluoride (NF₃) and hydrofluorinated ethers (HFE).

IV. *Use of Existing Reporting Protocols, Using Self-Certification*

- Acid Rain Protocol
- Department of Energy "1605(B)" Program
- For Vehicle Manufacturers, Reporting Process Similar to Existing Certification System

- But No Proposed Reporting Requirements for Agriculture, Except for Manure Management Units

How Does the Rule Address the Double-Reporting of GHG Emissions?

It is important to understand the difference between downstream and upstream sources. Downstream sources are “facilities that directly emit GHGs.” These sources’ emissions are determined by calculating their direct emissions. Upstream sources refer to entities that supply into the economy fossil fuels and industrial gases. These sources’ emissions are determined by identifying “the GHG emissions potential of a quantity of industrial gas or fossil fuel.”

Given that both downstream and upstream sources are covered under the proposed rule, double-reporting will occur. The EPA states that there will be double-reporting, but has concluded that it is not a problem:

There is inherent double-reporting of emissions in a program that includes both upstream and downstream sources. For example, coal mines would report CO₂ emissions that would be produced from combustion of the coal supplied into the economy, and the receiving power plants are already reporting CO₂ emissions to EPA from burning the coal to generate electricity... EPA recognizes the double-reporting... and does not intend to use the upstream and downstream emissions data as a replacement for the national emissions estimates found in the Inventory [another EPA program].

V. Reporting Schedule

- ▶ January 1, 2010: Facilities and suppliers would begin collecting data
- ▶ March 31, 2011: First emissions report would be due (data would cover emissions for 2010)—this does not apply to vehicle and engine manufacturers, who would begin reporting for model year 2011.

VI. Hearings and Comment Period

Public Hearings

- ▶ April 6 and 7, 2009: EPA Potomac Yard Conference Center, Arlington, VA
- ▶ April 16, 2009: Sacramento Convention Center, Sacramento, CA

Written Comments

Comments are due 60 days after publication of the rule in the Federal Register (the rule had not been published as of this writing).

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Related Links:

“Can the Golden State Catch a Greenhouse Waiver?” by Jonathan Adler, *Engage*. http://www.fed-soc.org/publications/pubID.724/pub_detail.asp

EPA registry page (includes a link to the notice):

<http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>

EPA Press Release:

<http://yosemite.epa.gov/opa/admpress.nsf/6424ac1caa800aab85257359003f5337/4bd0e6c514ec1075852575750053e7c0!OpenDocument>

EPA Fact Sheet: <http://www.epa.gov/climatechange/emissions/downloads/ProposedRule-FactSheet.pdf>

Washington Post article cited in paper: <http://www.washingtonpost.com/wp-dyn/content/article/2009/03/10/AR2009031001445.html>