



EPA Regulation of Greenhouse Gas Emissions Under the Clean Air Act

The U.S. Environmental Protection Agency (EPA) on July 30, 2008, published an Advanced Notice of Proposed Rulemaking (ANPR) that would impose a vast new regulatory regime on key U.S. businesses to regulate carbon dioxide (CO₂) and other greenhouse gas emissions using the Clean Air Act (CAA). If such programs are adopted, EPA will assume unprecedented regulatory control over virtually all aspects of the U.S. economy. The staggering cost to American businesses and consumers would produce negligible environmental benefits.

The CAA was not intended or designed to regulate greenhouse gas emissions. EPA should not regulate such emissions in the absence of Congress adopting comprehensive federal climate change legislation that supports the development and deployment of new clean coal technologies and contains costs while maintaining affordable energy and the global competitiveness of U.S. industries.

The ANPR is a request for public comment on the roadmap EPA has laid out for potential future action. It is essential to provide comments and information to EPA regarding this ANPR in order alert the next administration and Congress to the enormous consequences of proceeding with regulation under the CAA.

Impact of the ANPR

Using the CAA to regulate greenhouse gas emissions will create enormous economic, technical and legal problems for regulators and regulated alike. Regulation will necessitate a huge expansion of EPA's permitting program for both new and existing facilities. Although EPA claims in the ANPR that it wants to implement flexible, market-based programs that won't over-burden industry or the economy, the reality is that regulating greenhouse gases under the CAA will force EPA to impose rigid command and control standards without considering efficiency, flexibility or international competitiveness.

The CAA was designed to regulate emissions of air pollutants from sources within the U.S. that dissipate into the atmosphere quickly and that have local and regional environmental impacts. Conversely, greenhouse gases are emitted from innumerable sources around the world and circulate globally for long periods of time. Regulating greenhouse gases as suggested in the ANPR would unavoidably result in American producers and consumers bearing a tremendous responsibility for emissions from sources in other countries. The net benefit to air quality and human health would be negligible, while businesses and jobs are exported overseas.

If EPA adopts the programs outlined in the ANPR, U.S. mining companies can expect to be dramatically impacted. Once EPA begins regulating greenhouse gas emissions under one part of the CAA (i.e. for motor vehicles), other regulatory programs under the Act will automatically be triggered. Such regulation would potentially subject over 1 million previously unregulated businesses to the extensive regulatory burdens of documenting, reporting and reducing carbon dioxide emissions, as well as the associated penalties and risks of noncompliance. Most small and mid-sized businesses are not equipped to navigate through this complex regulatory structure. Here are some of the reasons the ANPR is so important to the mining industry:

- Virtually anything that has an engine would be regulated, including automobiles, light and heavy duty trucks, and mining and construction equipment.
- A business, building or mine that emits over 250 tons per year of CO₂ would become a regulated stationary source under the CAA. This would include businesses that use approximately \$70,000 of oil or natural gas per year in stationary equipment.
- Most mining equipment and processing facilities would likely fall under new regulation.
- Over 200,000 manufacturing operations would be classified as sources under outlined regulation, including facilities producing iron and steel, primary metals, petroleum and coal products, chemicals, aluminum, nonmetallic minerals, transportation equipment and other machinery.

It is important that EPA hear from the wide range of American industries, producers and consumers that will be impacted by the greenhouse gas regulation outlined in the ANPR. The CAA is inappropriate and ill-equipped to effectively and efficiently address climate change concerns. It is important to spread the word. Comments on the ANPR are due to EPA by Nov. 28, 2008, and may be submitted by following the instructions located at the following link: www.regulations.gov.

For more information on the ANPR and how to participate in this important rulemaking, visit: www.nma.org.