

Alerts & Publications

PDF



EPA Provides Details of Plans for Greenhouse Gas Regulation

February 24, 2010

US Environmental Protection Agency Administrator Lisa Jackson has provided details of Agency plans for Greenhouse Gas (GHG) regulation in a letter sent February 22nd (found [here](#)) to a group of seven senators representing Midwestern coal-producing states. The Senators joined in a letter from Senator Jay Rockefeller IV sent on February 19th, in which he seeks guidance from the Agency on its plans and importunes the Agency to consider potential economic impact on the regulated community.

Jackson indicates that no regulation will be issued in calendar 2010, and that only an estimated 400 large utilities and industrial sources will be regulated in 2011 in connection with applications due under the Clean Air Act (the same time period when 2012 light-duty vehicles will need to comply with GHG standards). Jackson notes that the Agency is likely to raise the currently proposed threshold of 25,000 tons of annual GHG emissions and that a phase-in schedule for smaller sources over the new threshold will be established such that the smallest regulated sources will become regulated for this first time no sooner than 2016. EPA's proposed fiscal year 2011 budget includes \$43 million for implementation of GHG regulation, including \$25 million for state grants to help develop the technical basis to implement regulation. Among the issues raised by Senator Rockefeller in his February 19th letter is the absence of EPA guidance on Best Available Control Technology for implementing GHG standards.

As noted in our prior alerts, EPA issued a GHG endangerment finding under

the Clean Air Act in December 2009 following a determination by the US Supreme Court in *Massachusetts v. EPA*, 549 U.S. 497 (2007) that GHG's are subject to regulation under the Act. EPA has previously issued its "tailoring rule" requiring phase in of GHG monitoring by potentially regulated industry (see our October 2009 alert). Senator Lisa Murkowski (R-Alaska) is sponsoring legislation to overturn EPA's prior endangerment findings. A number of trade and governmental groups have also filed suits in the DC Circuit seeking to block GHG regulation. The SEC has also recently issued guidance for reporting of expense potentially associated with GHG legislation (see our February 2010 alert).

Quick links +

Subscribe

' ! \$ #

[Disclaimer](#) | [Privacy Policy](#) | [Contact Us](#) | [Employee Portal](#)
Attorney Advertising © 2019 O'Melveny & Myers LLP. All Rights Reserved.