



Written by [Rebecca Terrell](#) on October 2, 2009

EPA Won't Wait for Congress to Enact New Greenhouse Gas Regulations

As debate heats up in the Senate over its new cap-and-trade bill, the Environmental Protection Agency (EPA) is pre-empting legislators' efforts to shackle greenhouse gas (GHG) emitters with new rules of its own. An EPA press release published Wednesday said that the agency intends to take advantage of provisions in the Clean Air Act to tighten restrictions on large industrial plant operations.

Under the EPA proposal such facilities would be required to obtain permits proving that the "best available control technologies and energy efficient measures" are installed, initiating lower emissions thresholds. EPA Administrator Lisa P. Jackson made the announcement this week at the California Governor's Global Climate Summit.



"This is a common sense rule that is carefully tailored to apply to only the largest sources — those from sectors responsible for nearly 70 percent of U.S. greenhouse gas emissions sources ... all without placing an undue burden on the businesses that make up the better part of our economy," Jackson claims, differentiating between large facilities like power plants, refineries and factories, and smaller businesses.

The EPA says all stationary emission sources would have to obtain similar Clean Air Act permits if recently announced fuel-efficiency proposals take effect next spring, but this rule would advance the date by which the agency could impose these regulations on large plants. It defines "large plants" as those that emit at least 25,000 tons of GHGs per year, estimating about 14,000 facilities fall in this category. The EPA also says that new interpretations of the Clean Air Act could allow it to enforce permits even sooner, prior to finalization of the rule. As justification, Jackson pointed out in her speech at the Climate Summit that the U.S. Supreme Court mandated her agency must regulate GHG emissions. "We are not going to continue business as usual while we wait for Congress to act," she declared.

Opponents charge that the Clean Air Act covers facilities that emit 250 tons of GHGs per year, and that in changing the amount, the EPA is discriminating against certain industries. Jeff Holmstead is an attorney and former EPA official under President George W. Bush. As reported in [The Hill](#), Holmstead defended the affected plants, saying, "Normally it takes an act of Congress to change the words of a statute enacted by Congress, and many of us are very curious to see EPA's legal justification for today's proposal. Let's hope it stands up in court, or anyone who wants to build anything in the U.S. will be facing more litigation and delay."



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The EPA will accept public comment on the proposals for 60 days but has not specified when the rule will be finalized.



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