

Advocacy Comment Asks EPA to Conduct Full Small Business Reviews of Greenhouse Gas Rulemakings

On December 23, 2009, the Office of Advocacy (Advocacy) filed a comment letter to the U.S. Environmental Protection Agency (EPA), discussing small entity concerns with EPA's current rulemakings to regulate greenhouse gases (GHGs) under the Clean Air Act. The comments relate to the proposed rule, "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule," 74 Fed. Reg. 55,292 (October 27, 2009).

- EPA has proposed or issued three interrelated GHG rules: (1) a finding that GHGs endanger human health and the environment, (2) the regulation of carbon dioxide (CO₂) and other greenhouse gases from light-duty vehicles, and (3) a rule that gives smaller stationary sources additional time before they have to apply for GHG preconstruction permits and GHG operating permits.
- EPA did not conduct a Small Business Advocacy Review (SBAR) Panel for any of the three rules. Instead, EPA certified under the Regulatory Flexibility Act (RFA) that each rule would not have a significant economic impact on a substantial number of small entities.
- EPA's RFA certifications are improper because they lack a factual basis; over six million small businesses will be regulated by GHG permitting requirements and over 1,400 small businesses will immediately become subject to GHG permitting. The economic impact on each small entity can be significant, including permitting application costs, delay costs, and consultant/attorney fees.
- Advocacy recommends that EPA provide the states and small entities with more time to understand and deal with the GHG rules.
- EPA also needs to convene an SBAR Panel to assess the impacts of GHG rules on small entities and to consider less burdensome alternatives, as required by the RFA.

For further information regarding this issue, visit Advocacy's web site at: www.sba.gov/advo or contact Keith Holman at keith.holman@sba.gov or (202) 205-6533.