

NM Mandatory GHG Reporting
Revised Concept for Proposal in Response to Comments
May 24, 2007

In response to comments received on the New Mexico Environment Department (NMED) Draft 20.2.87 NMAC, released April 24, 2007, NMED has reconsidered the concept for requiring greenhouse gas (GHG) mandatory reporting. The following four elements would replace the April draft and would be in addition to the Oil and Gas Emissions Reduction study and any proposals that are included in that study for GHG emissions inventory improvement for area sources.

Element 1: Oil and Gas Protocol Development for *The Climate Registry (TCR)*

- Jim Norton, New Mexico's representative on the TCR Board, will request that the TCR Board task New Mexico and the California Climate Action Registry (CCAR) with working together to develop a GHG reporting protocol for TCR for oil and gas (O&G) exploration, production, and processing.
- The development of the O&G protocol would have as a starting point the work done by API and IPIECA, the evaluation of these protocols contracted by the California Energy Commission, and the comments received regarding that evaluation. This protocol could incorporate the refinery protocol currently being developed by CCAR for the California Air Resources Board (CARB).
- Development of the protocol would include a stakeholder process that would seek and respond to comments from interested parties, including industry, the public and other states and provinces.
- The first task of this process would be to report back to the TCR Board at its next meeting with an outline of the proposed development process, including a timeline for the process and an estimation of the resources that will be needed to complete it.

Element 2: Mandatory Reporting in a Manner Similar to the California Climate Action Registry (CCAR)

- These provisions would apply to power plants, refineries and cement manufacturers. The regulation would need to define these entities. Later rulemakings could expand the entities subject to the rule.
- First mandatory emissions reporting year would be 2008; companies would have the option to report for previous years.
- Use CARROT, the reporting tool developed by CCAR for their voluntary registry, modified to allow mandatory reporting according to 20.2.87 NMAC.
- Most requirements of CCAR would apply. These could include:
 - Use of CCAR protocols and emissions factors
 - CO₂ the first year, plus remainder of the 6 Kyoto GHGs beginning in the fourth year
 - Third party verification of reports
 - Reporting would be entity-wide (i.e., company) rather than aggregated only up to the facility level

- Company may select base year and adjust baseline accordingly
- De minimis emissions must be documented to certifier
- Uncertified report due by August 31 of following year, certification complete by December 31 of following year.
- The regulation could modify requirements of CCAR. For example:
 - Geographic boundaries: NM mandatory, USA optional
 - Organizational boundaries: CCAR allows management control or equity share. TCR and NMED are considering operational control with disclosures regarding equity share.
 - De minimis of 3% of entity emissions (rather than 5% under CCAR)
 - Greater granularity in reports (unit level where possible)
 - Operational boundaries: Mandatory reporting of direct emissions from stationary combustion sources, process emissions, fugitive sources. Optional reporting of mobile combustion sources and indirect emissions from purchased electricity, heat, steam and cooling.
- Companies that would like to obtain baseline protection would need to report emissions for all the emissions listed above, including those that are optional under the regulation.
- Registration and reporting under CCAR or TCR would meet NM requirements.
- NM would contract with CCAR to host the database, which would be available online. NM would also contract with CCAR to approve third party verifiers and evaluate entity/verifier combinations for conflict of interest issues.
- Entities that are not required to report may do so voluntarily.

Element 3: Legislation to Authorize Fee Collection for Element 2 and Commit to Protection of Baselines

- The reporting under Element 2 above would require NMED to have resources to cover the contract(s) with CCAR and to pay for two full-time NMED employees. These employees would manage the program, including the contract, and provide technical assistance to reporting entities.
- NMED does not currently have the statutory authority to charge fees for emissions reports. If we received the authority, it would be implemented via rulemaking, where the fees would be established.
- Fees, if established, would be too late for startup costs (for example, initial contracts); additional funds would need to be found for those costs.
- California legislation has committed the state government to working to protect potential emissions credits from early reductions from baselines for companies that register under CCAR. New Mexico may consider including similar language in any climate change related legislation.

Element 4: Include authority for Greenhouse Gas reporting in 20.2.73 NMAC

- Currently, 20.2.73 NMAC (Part 2.73) gives NMED authority to request emissions inventory reports from sources of criteria pollutants. Title V sources are required to report each year; minor sources are required to report upon request by NMED.
- Reports are facility (permit, NOI) specific, not entity-wide

- Part 2.73 would be revised to allow NMED to request emissions inventory reports for greenhouse gases. Sources would only report upon request, not every year. NMED would need to request the inventory report prior to the reporting year.
- Also prior to the reporting year, NMED would need to provide public notice and allow public comment on emissions calculation procedures and the scope and content of GHG emissions reports.
- GHG emissions reports would likely be included in criteria pollutant emissions reports and follow the same reporting procedures.
- Legislation for fee authority (see Element 3 above) would not include fees for Part 2.73 reporting.