



Draft EPA Rules Regarding Mandatory Reporting of Greenhouse Gases: Public Comment to be Considered

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As a first step in its quest to control greenhouse gases ("GHG"), the United States Environmental Protection Agency has proposed Rules for the reporting of certain GHG emissions within all sectors of the U.S. economy. The Rules--which would regulate industries as far flung as direct emitters of GHGs to manufacturers of mobile sources and engines--would require reporting of annual emissions of the "major GHGs that are directly emitted by human activities" (such as carbon dioxide, methane, nitrous oxide, sulfur hexafluoride, hydroflourocarbons, perfluorochemicals, and other fluorinated gases).

THE EPA'S GOALS

The EPA identified the following goals of the mandatory reporting system:

- To obtain data that is of sufficient quality that it can be used to support a range of future climate change policies and regulations.
- To balance the rule coverage to maximize the amount of emissions reported while excluding small emitters.
- To create reporting requirements that are consistent with existing GHG reporting programs by using existing GHG emission estimation and reporting methodologies to reduce reporting burden, where feasible.

WHO WILL THE RULES AFFECT?

The proposed Rules, would apply to "certain downstream facilities that emit GHGs (primarily large facilities emitting 25,000 tpy of carbon dioxide equivalent GHG emissions or more) and to upstream suppliers of fossil fuels and industrial GHGs, as well as to manufacturers of vehicles and engines," and would require facility level reporting of annual emissions of GHGs.

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PRACTICE AREAS

Energy, Oil & Gas Law

Environmental Law



Types of entities that may be affected by these proposed Rules include stationary fuel combustion sources, electricity generation, adipic acid production, aluminum production, ammonia manufacturing, cement production, electronics manufacturing, ethanol production, ferroalloy production, fluorinated GHG production, food processing, glass production, HCFC-22 production and HFC-23 destruction, hydrogen, iron, steel, lead, lime, magnesium, and nitric acid production, oil and natural gas systems, petrochemical production, petroleum refineries, phosphoric acid production, pulp and paper production, silicon carbide production, soda ash manufacturing, sulfur hexafluoride from electrical equipment, titanium dioxide production, underground coal mines, zinc production, landfills, wastewater treatment, manure management, suppliers of coal and coal based products, coal based liquids fuels, petroleum products, natural gas and NGLs, industrial GHGs, and carbon dioxide, and mobile sources. If your organization falls within one of the entity categories listed above, and emits one of the major GHGs noted above, you may be affected by the proposed Rules.

HOW MIGHT THE PROPOSED RULES AFFECT MY ORGANIZATION?

Under the proposed Rules, facilities and suppliers would collect data beginning on January 1, 2010. The first annual emissions report (for 2010 emissions) would be due on March 31, 2011. Reports would include total annual GHG emissions in metric tons aggregated for all source categories and supply categories, and would separately present annual mass GHG emissions for each source and supply category. The report would also include activity data (e.g., fuel use, feedstock inputs) that were used to generate the emissions data. Vehicle and engine manufacturers would be required to report emissions from the vehicles and engines they produce, generally in terms of an emission rate.

The proposed Rules use a combination of direct emission measurement and facility-specific calculations as the general monitoring approach. This would require direct measurement of emissions from units at facilities that already are required to collect and report data using continuous emission monitoring systems under other Federal enforceable programs. Facilities without existing continuous emission monitoring systems could choose to either directly measure emissions or use facility-specific GHG calculation methods. Each facility or supplier would also be required to retain and make available to EPA upon request the records detailing the data collected and methods used for calculating the GHG emissions, for five years in an electronic or hard-copy format as appropriate.

HOW DO I MAKE MY OPINION KNOWN?

A copy of the Rules in their entirety may be downloaded at www.epa.gov. Your public comments should be directed to the Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 6102T, Attention Docket ID No. EPA-HQ-OAR-2008-0508, 1200 Pennsylvania Avenue, NW, Washington D.C. 20460, and must be provided within 60 days after the proposed Rules are published in the CRF.