

## EPA's mandatory GHG reporting rule

McAfee & Taft RegLINC - January 2011

By [Mary Ellen Ternes](#)

### Final Rule, Subpart W, Oil and Natural Gas Systems

Oil and natural gas producers are busily preparing to comply with EPA's final rules requiring reporting of GHG emissions from oil and natural gas systems, promulgated as 40 CFR Part 98, Subpart W (Section 98.230), 75 Fed. Reg. 75548 (Nov. 30, 2010). The final petroleum and natural gas reporting rule applies to, specifically, offshore petroleum and natural gas production, onshore petroleum and natural gas production, onshore natural gas processing, onshore natural gas transmission compression, underground natural gas storage, liquefied natural gas (LNG) storage and LNG import and export, and natural gas distribution. Only those facilities, as defined by Subpart W, that emit 25,000 metric tons or more of CO2 equivalent per year in aggregated emissions from all sources are required to report annual GHG emissions to EPA.



This rule was originally proposed on April 10, 2009. After significant comment by industry, this proposed rule was taken back to the drawing board and repropose a year later in a much more manageable form. With the new proposal, EPA had cut back most of the original provisions requiring actual measuring and monitoring to allow estimating based upon component count, and included a new definition for "facility" based upon basin-specific production. The 2009 proposal required 100 percent measurement by six segments of the reporting industries, while the 2010 proposal and final rule require hybrid methodologies for GHG quantification by eight industry segments with only limited direct measurement. This hybrid method of GHG quantification includes engineering estimates, emissions modeling software and emission factors, and, only when other methods are not feasible, direct measurement of emissions.

The final rule's definition of "facility" is specific only to reporting of GHG emissions pursuant to Subpart W and will not affect other EPA CAA rule implementation. For purposes of Subpart W as applied to onshore petroleum and natural gas production, "facility" means all petroleum or natural gas equipment on a well pad or associated with a well pad and CO2 enhanced oil recovery operations that are under common ownership or common control including leased, rented, and contracted activities by an onshore petroleum and natural gas production owner or operator and that are located in a single hydrocarbon basin as defined in 40 CFR 98.238. If an entity owns or operates more than one well in a basin, then emissions from all equipment are aggregated and included within that single "facility" as defined. The final rule also defines vented emissions separately from fugitive emissions and replaces the term "fugitive emissions" with "equipment leak" to align Subpart W with industry terminology. Producers should begin actual data gathering activities per Subpart W on January 1, 2011, and be prepared to submit GHG emission reports by March 31, 2012.



- [EPA's links to Subpart W rulemaking](#)

## More protection for confidential business information

EPA has always taken the position that air pollutant emissions data required to be reported pursuant to the Clean Air Act are not “confidential business information.” With the GHG reporting rule, EPA originally took this position a step further and maintained that data, required for use in calculations that will produce emissions data, are also not CBI. However, it is this input data (i.e., production and throughput quantities, product compositions, raw materials used, and other process-specific information among other data elements, etc.) required as input data for the mandated calculations that have been identified by industry as sensitive, trade-secret and CBI.

To resolve many of the public comments expressing concerns about CBI swept into emission reporting as input data, on December 17, 2010, EPA issued three concurrent actions deferring reporting requirements for this data and giving EPA time to evaluate these comments before releasing this information to the public. First, EPA is proposing to defer reporting these data elements, as specified in the rulemaking, until March 31, 2014, with an interim final rule deferring 2010 reporting of these data elements until August 31, 2011, and a call for information on these inputs to emissions equations to assist EPA in evaluating these issues.

- [EPA's links to CBI developing rulemaking](#)

## LINKS

Mary Ellen Ternes' bio

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**Oklahoma City** Tenth Floor • Two Leadership Square 211 N. Robinson • Oklahoma City, OK 73102-7103  
(405) 235-9621 office • (405) 235-0439 fax

**Tulsa** 1717 S. Boulder Suite 900 • Tulsa, OK 74119  
(918) 587-0000 office • (918) 599-9317 fax