

## First Nationwide Greenhouse Gas Emission Reporting Rules Proposed: Comments Likely Due in May

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The Environmental Protection Agency (EPA) yesterday [proposed regulations](#) [.pdf] which create the first nationwide system for reporting emissions of CO<sub>2</sub> and other greenhouse gases emitted by major sources in the US. The proposed regulations were promulgated pursuant to the [FY2008 Consolidated Appropriations Act](#) [.pdf], which was signed into law in December 2007, and which instructs the EPA to require mandatory reporting of greenhouse gas emissions in all sectors of the economy. Approximately 13,000 facilities will be subject to the rule, accounting for 85% to 90% of greenhouse gases emitted in the U.S. Despite this large percentage, most small businesses will not be subject to the rule, as the primary threshold is set at 25,000 metric tons of CO<sub>2</sub> equivalent, an amount equal to the emissions from 2,200 homes, 58,000 barrels (2.4 million gallons) of oil, or 131 rail cars of coal. This reporting threshold is higher than many of the proposed or final regional greenhouse gas thresholds. For example, it is five times larger than the threshold in the Massachusetts regulations at 310 CMR 7.71, and well above the Western Climate Initiative reporting threshold of 10,000 tons.

In addition to facilities that directly emit 25,000 metric tons of CO<sub>2</sub> equivalent per year, the proposed rule requires suppliers of fossil fuels and industrial greenhouse gases, as well as manufacturers of vehicles and engines, to submit annual reports to EPA, which catalogue the potential emissions from the downstream use of their products for all greenhouse gases, i.e., carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), sulfur hexafluoride (SF<sub>6</sub>), and other fluorinated gases, including nitrogen trifluoride (NF<sub>3</sub>) and hydrofluorinated ethers (HFE). The proposed rule does not require control or caps on emissions, but only that the sources monitor and report greenhouse gas emissions. EPA will use the data gathered from this reporting process to formulate and assess the impacts of future policies.

Interestingly, the proposed rule requires reporting of emissions from both upstream production facilities and downstream emission sources, which would result in some double-reporting of emissions – for instance reporting of emissions by both an upstream supplier of fuel oil and the large end-user facility who burns the oil. In [guidance](#) that accompanies the proposed regulation, EPA clarifies that such double reporting is consistent with the appropriations language, and will provide information to EPA to craft policies that address both sides, such as cap and trade upstream and end-use emissions standards downstream.

If adopted, the proposed rule would require reporters to submit their first annual greenhouse gas emissions report by March 31, 2011, based on emissions data from 2010. Facilities which already report emissions data quarterly (such as for the Acid

Rain Program) would continue to do so. Requirements for vehicle and engine manufacturers would kick in with the 2011 model year.

For the majority of reporters, EPA will collect data at the facility level. Vehicle and engine manufacturers, fossil fuel importers/exporters, and local gas distribution companies will report at the corporate level. The reported data will be verified by EPA, as in other Clean Air Act programs.

For more information on which facilities are subject to the rule and what emissions they will have to report, we recommend [this chart from EPA guidance](#) [.pdf]. Comments on the proposed rule must be submitted within 60 days of publication of the rule in the federal register. The comment period will likely close sometime before the end of May.