

EPA Mandates Reporting of Greenhouse Gases

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On October 30, 2009, the EPA published its final rule on Mandatory Reporting of Greenhouse Gases (“GHG”). The Fiscal Year 2008 Consolidated Appropriations Act, signed on December 26, 2007 authorized funding for the EPA to develop and publish rules requiring mandatory reporting of greenhouse gas emissions above appropriate thresholds in all sectors of the economy of the United States.

Acting under Clean Air Act, the aim of mandatory GHG reporting program is to provide the EPA and other government agencies with economy-wide data on facility level GHG emissions. The EPA states that information acquired through this program will be used to develop more effective climate change policy through an assessment of factors that influence GHG emission rates at facilities within and across industries.

EPA is requiring annual reporting at the facility level for GHG emitters that meet a minimum threshold of 25,000 metric tons of carbon dioxide equivalent per year. The gases covered by the proposed rule are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), sulfur hexafluoride (SF₆), and other fluorinated gases including nitrogen trifluoride (NF₃) and hydrofluorinated ethers (HFE). The rule is effective on December 29, 2009. Each covered facility must have a compliant emissions monitoring plan in place no later than April 1, 2010. Covered facilities will be required to report by March 3, 2011 for the calendar year 2010 emissions (with the exception of vehicle and engine manufacturers, who begin reporting for vehicle model year 2011).

The 25,000 metric ton reporting threshold will exclude most small businesses and commercial building owners from the reporting requirement. EPA estimates that the approximately 10,000 facilities requiring to report under the final rule are responsible for approximately 85 percent of the national GHG emissions. The Agency has posted an online “applicability tool” available at <http://www.epa.gov/climatechange/emissions/GHG-calculator/index.html> to assist facilities in determining whether they are required to report GHG emissions under this rule.

The Agency will utilize an electronic verification system in conjunction with on-site auditing. The EPA further requires each reporting facility to designate a representative, who will certify, sign and submit each annual report and serve as the contact person to receive future communications from the EPA. The agency is currently developing a web based system for facilities to use in making reports.

Facilities required to report for a given year will not fall off the required mandatory reporting list until that facility records five consecutive years of emissions below the threshold of 25,000 metric tons of CO₂ equivalent per year or three consecutive years of emissions below 15,000 metric tons of CO₂ equivalent per year. More information is available on the EPA’s rulemaking at <http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>.