



Summary of EPA Final Rule: Mandatory Reporting of Greenhouse Gases

On September 22, 2009, EPA Administrator Lisa Jackson signed the final rule: Mandatory Reporting of Greenhouse Gases. The preamble and final regulatory text will be published in the Federal Register shortly, and will be made available at www.regulations.gov (Docket ID No. EPA-HQ-OAR-2008-0508). A prepublication version is available on EPA's website at: www.epa.gov/climatechange/emissions/ghgrulemaking.html.

To assist reporters in complying with this regulation, EPA has developed a suite of information and training resources including:

- An on-line applicability tool that will assist potential reporters to assess if they meet the threshold for reporting.
- A series of webinars on the reporting requirements of the rule.
- A variety of guidance documents for different audiences.
- Information sheets on reporting requirements for each of the covered sectors.
- A comprehensive website with information on upcoming training opportunities along with all the available information on this website.

For a schedule of the training sessions and registration information see <http://www.epa.gov/climatechange/emissions/training.html>.

Overview

The final rule requires mandatory reporting of greenhouse gas (GHG) emissions from large sources in the United States beginning in 2011 for the 2010 data year. (Some 2010 data may be "best available," as discussed below).

Reporting Threshold

Facilities emitting 25,000 metric tons or more per year of carbon dioxide equivalents (CO₂e), suppliers of fossil fuels or industrial greenhouse gases, and manufacturers of vehicles and engines submit annual reports to EPA.

The Final Rule added a mechanism for facilities and suppliers to cease annual reporting by reducing their GHG emissions as follows:

- Cease reporting after 5 consecutive years of emissions below 25,000 metric tons CO₂e/year.
- Cease reporting after 3 consecutive years of emissions below 15,000 metric tons CO₂e/year.
- Cease reporting if the GHG-emitting processes or operations are shut down.

Under any of the above circumstances, before they can stop reporting, the facility or supplier must submit a notification to EPA that announces the cessation of reporting and explains the reasons for the reduction in emissions so EPA can understand the reason for the decrease in emissions to help aid

in evaluating emission reduction options across the industry. If emissions subsequently increase to 25,000 metric tons of CO₂e or more in any calendar year, the facility or supplier must again begin annual reporting.

GHGs Covered

The proposed rule covers 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).

Sector Coverage

The proposed rule covers approximately 10,000 reporters, accounting for about 85 percent of greenhouse gases emitted in the United States.

The final rule includes reporting requirements for 31 of the 42 emission sources listed in the proposed rule proposal. At this time, EPA is not finalizing the following source categories to allow further consideration of comments and options:

- Electronics manufacturing.
- Ethanol production.
- Fluorinated GHG production.
- Food processing.
- Industrial landfills.
- Magnesium production.
- Oil and natural gas systems.
- SF₆ from electrical equipment.
- Underground coal mines.
- Wastewater treatment.
- Suppliers of coal.

EPA has indicated that it needs additional time to address the technical comments received relating to these categories, particularly since the included source categories did not require as much re-evaluation. In the case of some source categories, EPA may need to re-propose reporting regulations, and in other cases EPA may release a supplemental rule-making without re-proposing. EPA has not determined the exact schedules for reconsideration, but some source categories could be finalized as early as next year. Reporting deadlines will be similarly shifted.

Reporting Level

EPA is proposing facility-level reporting for most source categories under this program. Specifically, the owner or operator of a facility is required to report its GHG emissions from all source categories at the facility for which there are methods developed and listed in this proposal. However, the following source categories require reporting emissions at the corporate or entity level:

- Vehicle and engine manufacturers;
- Fossil fuel importers and exporters; and
- Local gas distribution companies.

Facility-level reporting by owners or operators is consistent with other Clean Air Act (CAA) or state-level regulatory programs that typically require facility- or unit-level data and compliance. The

proposal defines the term “facility” as “any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits or may emit any greenhouse gas.”

In addition to reporting emissions at the total facility level, the emissions must also be broken out by source category (e.g., a petroleum refinery must separately report emissions for refinery production processes, wastewater, onsite landfills, and any other source categories listed that are located onsite).

Reporting Requirements

Reporting will be electronic with data submitted directly to EPA. Emission reports for 2010 must be submitted to EPA by March 31, 2011. Facilities and suppliers currently reporting on a more frequent basis for other EPA programs (e.g., Acid Rain and fuels programs) will continue their current reporting (quarterly in the case of Acid Rain).

The final rule added a provision to allow use of best available data for any parameter (e.g., fuel use, daily carbon content of feedstock by process line) that cannot reasonably be measured according to the monitoring and QA/QC requirements of a relevant subpart for the first quarter of 2010.

Beginning April 1, 2010, the reporter must begin following all applicable monitoring and QA/QC requirements, unless they submit a request to EPA showing that it is not reasonably feasible to acquire, install, and operate a required piece of monitoring equipment by April 1, 2010, and EPA approves the request. Reporters must submit extension requests to EPA no later than 30 days after the effective date of the GHG reporting rule. EPA will not approve use of best available methods beyond December 31, 2010.

For facilities required to report only stationary combustion source emissions, reporters may submit an abbreviated GHG report for 2010 emissions from existing facilities that were in operation as of January 1, 2010. While the breakdown of emissions by individual combustion units and the activity data used to calculate the emissions do not need to be reported as part of the abbreviated GHG report, the calculation variables used in the selected method must be reported. For calendar year 2011, all reporters must submit the full annual GHG report containing all required information.

Emissions must be reported using international standard units (e.g., in kilograms [kg] or metric tons per unit of time). Data used in calculations and supplemental data for quality assurance (QA) could still be submitted in English weights and measures (e.g., mmBtu/hr), but the specific units of measure must be included in the data submission. GHGs are to be reported both individually and in aggregate (CO₂e) per unit of time. Reporting the quantity and type of gas emitted allows for future recalculation of CO₂e emissions in the event that Global Warming Potential (GWP) factors are revised.

Verification

The proposed rule requires self-certification with EPA verification. Under this approach, all reporters will certify that the information they submit to EPA is truthful, accurate, and complete. EPA will then review the submitted data and verify that the GHG emission reports are complete, accurate, and otherwise meet the reporting requirements. Self-certification is consistent with many EPA regulatory

programs. However, the proposal does not preclude EPA from requiring third party verification for potential future programs (e.g., GHG offsets).

Public Availability of Data

EPA will publish data submitted or collected through its website, reports, and other formats annually. Confidential business information will be protected from publication (emissions data is generally not considered confidential).¹ EPA plans a separate notice and comment process in 2010 to address the treatment of confidential business information.

Recordkeeping Requirements

Reporting facilities will be required to keep the following records, in addition to any records prescribed in each applicable subpart:

- A list of all units, operations, processes, and activities for which GHG emission were calculated.
- The data used to calculate the GHG emissions for each unit, operation, process, and activity, categorized by fuel or material type.
- Annual GHG reports.
- Missing data computations.
- A written GHG Monitoring Plan.
- The results of all required certification and quality assurance tests of continuous monitoring systems, fuel flow meters, and other instrumentation used to provide data for the GHGs reported under this part.
- Maintenance records for all continuous monitoring systems, flow meters, and other instrumentation used to provide data for reported GHGs.

Interaction with State and Voluntary Reporting

The rule includes no provisions for state delegation, and entities will report directly to EPA. In order to reduce the burden of reporting, EPA staff is coordinating with states, The Climate Registry and the Exchange Network on a data exchange standard for GHG reporting.

Enforcement

If reporters discover or are notified by EPA of errors in an annual GHG report, they must submit a revised report within 45 days. Reporters that fail to meet the reporting requirements will be subject to enforcement action by EPA under the CAA, which includes administrative, civil, and criminal penalties. Deviations from the rule that could ultimately be considered violations include but are not limited to the following:

- Failure to report GHG emissions,
- Failure to collect data needed to calculate GHG emissions,
- Failure to continuously monitor and test as required,
- Failure to retain records needed to verify the amount of GHG emissions, and
- Failure to calculate GHG emissions following the methodologies specified in this part.

Each day of a violation constitutes a separate violation.

¹ EPA notes the following in the preamble, “Although CBI determinations are usually made on a case-by-case basis, EPA has discussed in an earlier Federal Register notice what constitutes emissions data that cannot be withheld as CBI (956 FR 7042– 7043, February 21, 1991).”