



EPA Finalized The Mandatory Reporting of Greenhouse Gases Rule

By: [Julia Jones](#)

Moving a step closer to regulating pollutants associated with climate change, the Administrator of the Environmental Protection Agency (“EPA”) signed the Final Mandatory Reporting of Greenhouse Gases Rule (“Final Rule”). This Final Rule applies to a broad range of industrial and manufacturing sectors, requiring them to monitor and report greenhouse gas (“GHG”) emissions. The EPA estimates that nearly 10,152 facilities will be subject to the Final Rule, and is estimated to cost the private sector approximately \$115 million in the first year. According to the EPA, the Final Rule is intended to collect accurate and timely emissions data that will serve future policy decisions such as the possible setting of GHG New Source Performance Standards under the Clean Air Act.


The Final Rule targets certain listed source categories such as petroleum refineries and glass production, various suppliers of fossil fuels, and facilities that emit 25,000 metric tons of CO₂e each year, including stationary fuel combustion units that emit the 25,000 metric tons CO₂e/year. The facilities subject to the Final Rule must begin collecting data on January 1, 2010, and submit initial reports no later than March 31, 2011.

Differing from the proposed rule issued earlier this year (April 2009), the Final Rule does not include reporting requirements for the following source categories: oil and natural gas systems, ethanol production, fluorinated GHG production, food processing, magnesium production, SF₆ from electrical equipment, industrial landfills, wastewater treatment, and suppliers of coal and underground coal mines. For each of these source categories, the EPA is continuing to review submitted public comments, and plans to make final determinations for each source category in the future. Therefore, their absence in this Final Rule does not indicate a lack of intent to regulate those source categories by the EPA.

Another difference is that the Final Rule does not carry forward the proposed “once-in always-in” requirement, meaning once a facility becomes subject to the rule, it would always be required to report its GHG emissions even if those emissions later fall below the 25,000 metric tons/year threshold. The Final Rule provides that a facility may cease to report GHG emissions if its annual report shows a drop in emissions below the 25,000 metric tons/year for five years or a drop to below 15,000 metric tons/year for three years. The Final Rule also provides a brief time in which use of “best available” monitoring methods will be acceptable for those facilities that cannot install the monitoring equipment dictated by the rule.

Sixty days following the rule’s publication in the Federal Register, parties who submitted comments may seek a petition for reconsideration of the Final Rule and judicial review.

The pre-publication draft of the Final Rule, and additional EPA-issued information on the rule, can be found on EPA’s website at: <http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>.



2009, Beatty & Wozniak, P.C. All rights reserved.
This newsletter does not constitute legal advice. The views expressed in this newsletter are the views of the authors and not necessarily the views of the firm. Please consult with legal counsel for specific advice and or information.
Read our complete [legal disclaimer](#).