

## Legal Lookout: Meet the GHG Rule

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EPA signs final rule requiring greenhouse gas emissions reporting.

On Oct. 30, 2009, EPA issued a final rule that requires reporting of greenhouse gas (GHG) emissions from all sectors of the economy. The final rule applies to fossil fuel suppliers and industrial gas suppliers, direct GHG emitters, and manufacturers of heavy-duty and off-road vehicles and engines. The rule requires only that "sources above certain threshold levels monitor and report emissions." According to EPA's fact sheet, the threshold for reporting is 25,000 metric tons or more of CO<sub>2</sub> equivalent per year.<sup>1</sup>

Reporting will be required at the facility level, except that certain suppliers of fossil fuels and industrial GHGs, as well as vehicle and engine manufacturers, will report at the corporate level. Under the final rule, facilities and suppliers will begin collecting data on Jan. 1, 2010, and the first emissions report is due on March 31, 2011.

### Background

EPA estimates that 85 percent of the total U.S. GHG emissions from approximately 10,000 facilities are covered by the final rule. According to the agency, most small businesses would fall below the 25,000 metric ton threshold and thus would not be required to report GHG emissions to EPA. The final rule includes a table of examples of affected entities by category.

### Key aspects of final rule

EPA described the following key changes from its April 10, 2009, proposed rule:

- 1. Exiting the program** – Added a mechanism for facilities and suppliers to cease annual reporting by reducing their GHG emissions:
- 2. Measuring devices** – Added a provision to allow use of best available data in lieu of the required monitoring methods for January through March 2010.
- 3. Monitoring equipment** – In several subparts, added monitoring options, changed monitoring locations, or allowed engineering calculations to reduce the need for installing new monitors.
- 4. Sampling frequency** – For some source categories, reduced the frequency for sampling and analysis.
- 5. Exemption** – Excluded research and development activities from reporting.

**6. Quality assurance** – Added calibration requirements for flow meters and other monitoring devices, including a 5-percent accuracy specification.

**7. Report revision** – Added provision to require submittal of revised annual GHG reports if needed to correct errors.

**8. Records retention** – Changed the general records retention period from five years to three years.

**9. Verification** – In several subparts, required more data to be reported rather than kept as records to allow EPA to verify reported emissions.

**10. Combustion sources** – Added exemptions for unconventional fuels, flares, hazardous wastes and emergency equipment. Reduced the need for mass-flow monitors for some units or fuels. Allowed facilities to aggregate emissions reporting from smaller units.

**11. Manure management systems** – Added an animal population threshold to reduce the burden of determining applicability. Reduced the monitoring requirements.

EPA has posted frequently asked questions, a presentation concerning the final rule, an applicability tool, and its response to comments on its website, which is available on the Web at [www.epa.gov/climatechange/emissions/ghgrulemaking.html](http://www.epa.gov/climatechange/emissions/ghgrulemaking.html). The final rule was effective on Dec. 29, 2009. PE

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## **References**

1. The rule was issued on Oct. 30, 2009. 74 Fed. Reg. 56260. The fact sheet is available on the Internet at <http://www.epa.gov/climatechange/emissions/downloads09/FactSheet.pdf>.