

Economy-Wide, Mandatory Federal Greenhouse Gas Monitoring and Reporting Has Arrived: Is Your Facility Required to Report?

March 12, 2009

On March 10, 2009, the U.S. Environmental Protection Agency (USEPA) pre-published a proposed greenhouse gas (GHG) monitoring and reporting regulation that will soon appear in the *Federal Register*. This regulation, if finalized as written, would require a host of industries from varied sectors of the economy to track their emissions of GHGs and report those emissions annually to USEPA.

Until this proposed regulation was released, it was not known, with assurance, which industries, and what size facilities, would be affected. Although the proposed regulation may be changed based on comments that may be received (a 60-day comment period has been established), it appears that the following industries will be affected:

General Stationary Fuel Combustion

Sources
Electricity Generation
Adipic Acid Production
Aluminum Production
Ammonia Manufacturing
Cement Production
Electronics Manufacturing
Ethanol Production
Ferroalloy Production
Fluorinated GHG Production
Food Processing
Glass Production
HCFC-22 Production and HFC-23
Destruction
Hydrogen Production
Iron and Steel Production
Lead Production
Lime Manufacturing
Magnesium Production
Nitric Acid Production
Oil and Natural Gas Systems
Petrochemical Production

Petroleum Refineries
Phosphoric Acid Production
Pulp and Paper Manufacturing
Silicon Carbide Production
Soda Ash Manufacturing
Sulfur Hexafluoride (SF₆) from Electrical Equipment
Titanium Dioxide Production
Underground Coal Mines
Zinc Production
Landfills
Wastewater Treatment
Manure Management
Suppliers of Coal
Suppliers of Coal-based Liquid Fuels
Suppliers of Petroleum Products
Suppliers of Natural Gas and Natural Gas Liquids (NGLs)
Suppliers of Industrial GHGs
Suppliers of Carbon Dioxide (CO₂)
Manufacturers of Mobile Sources

In scanning through this list, which contains many specific industry names, it is easy to overlook a rather blandly named category of GHG sources that should be given special attention by facility owners and operators who may have thought that GHG regulation would reach only electric power plants, steel plants, cement plants and the like (*e.g.*, the Regional Greenhouse Gas Initiative, or "RGGI" – a multistate GHG reduction initiative – is aimed solely at electric generating facilities). This blandly named category – the first one listed above – is called "General Stationary Fuel Combustion Sources." The sources in this category are facilities with commonplace combustion devices including, but not limited to: boilers, combustion turbines, engines, incinerators and process heaters that "combust solid, liquid, or gaseous fuel generally for the purposes of producing electricity, generating steam, or providing useful heat or energy for industrial, commercial, or institutional use, or reducing the volume of waste by removing combustible matter." Facilities meeting this definition and having emissions greater than or equal to 25,000 metric tons CO₂e/yr ("CO₂e" = carbon dioxide equivalent) are covered under this new, USEPA-proposed regulation. USEPA estimates that 3,000 "General Stationary Fuel Combustion Sources" have GHG emissions exceeding this threshold.

Also of note is that the proposed regulation covers suppliers (in addition to end users) of GHG-producing fuels. Specifically, the proposed regulation covers suppliers of coal, coal-based liquid fuels, petroleum products, natural gas and natural gas liquids.

Under this proposed regulation, affected facilities and suppliers would be required to begin collecting data on January 1, 2010. The first emissions report would be due on March 31, 2011, for emissions emitted during 2010. Reports would be submitted annually.

If you have a facility or supply operation that is described above, and you have not already begun monitoring its emissions of GHG in a manner that positions you to be able to comply with the proposed requirements, you should waste no time in developing your capability to do so.

For Further Information

If you have any questions regarding the proposed requirements, or otherwise developing a long-term strategy for operating effectively and profitably in a GHG-constrained world, please contact [Seth v.d.H. Cooley](#), any [member](#) of our [Energy, Environment and Resources Practice Group](#) or the attorney in the firm with whom you are regularly in contact.