

## **New Greenhouse Gas Reporting Requirements Impact Large Commercial and Institutional Buildings**

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Under a new Clean Air Act rule finalized by the Environmental Protection Agency (EPA) on September 22, 2009, suppliers of fossil fuels or industrial greenhouse gases (GHGs), manufacturers of heavy-duty and off-road vehicles and engines, and other facilities emitting 25,000 metric tons or more of GHGs per year will be required to submit annual reports to the EPA. Affected facilities must begin monitoring greenhouse gas emissions on January 1, 2010 and the first annual report is due to the EPA on March 31, 2011.

The EPA has identified 29 specific categories of GHG sources covered by the rule. Among them are commercial and institutional buildings with 25,000 metric tons per year of GHG emissions from only stationary fuel combustion sources located within the physical boundary of the facility. Stationary fuel combustion sources are defined as “devices 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. Stationary fuel combustion sources include, but are not limited to, boilers, simple and combined-cycle combustion turbines, engines, incinerators, and process heaters.” This source category excludes portable equipment and emergency generators and equipment.

The EPA estimates that 20 to 25 percent of commercial buildings will be required to report their emissions under the new rule, which will include some office buildings, hospitals, schools, or other large facilities. Many of these facilities will be subject to regulation under the Clean Air Act for the first time. The rule requires no GHG controls; however, the EPA will likely make the emission reports readily available to the public, creating an incentive for facilities to reduce their emission.

In order to simplify the rule applicability determination for commercial and institutional buildings, the EPA excludes from the rule facilities with an aggregate maximum rated heat input capacity of less than 30 million Btu/hr. According to the EPA’s analysis, a facility with combined stationary combustion units below the 30 million Btu/hr threshold operating full time (e.g., 8,760 hours per year) with all types of fossil fuel will emit less than 25,000 metric tons of GHGs per year. Using this approach, the EPA estimates that approximately 30,000 facilities will need to assess whether or not they must monitor and report under the rule. Of these 30,000 facilities, the EPA expects approximately 13,000 to meet the threshold and have to report. The EPA has committed to provide additional applicability guidance with simple cutoffs depending on the type of fuel burned, but it is unknown when this additional guidance will be available.

Stationary fuel combustion sources governed by the rule must report emissions of three GHGs: carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and nitrous oxide (N<sub>2</sub>O). These facilities must calculate their CO<sub>2</sub> emissions by using one of four methodologies, subject to certain restrictions based on the size of the combustion source, type of fuel burned, and other factors. The simplest methodology allows the reporter to use a straightforward procedure that relies on fuel use data multiplied by an emission factor contained in the rule. No monitoring instruments or sampling analyses are required for this tier. At the other extreme, reporters for very large units (with a maximum heat input capacity greater than 250 million Btu/hr) that are fired with solid fuel and have continuous emission monitoring systems (CEMS) in place, must use the CEMS to measure GHG emissions. N<sub>2</sub>O and CH<sub>4</sub> emissions must be calculated only for fuels for which default emission factors are provided in the rule.

Once a facility is subject to the reporting rule, it must continue to submit GHG reports annually until it demonstrates that reported GHG emissions are either (i) less than 25,000 metric tons of GHGs per year for five consecutive years or (ii) less than 15,000 metric tons of GHGs per year for three consecutive years. The reporter must notify the EPA that it intends to cease reporting and explain the reasons for the reduction in emissions.

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The report must include a certification signed by a designated representative of the owner or operator of the facility. The certification requires the designated representative to certify on behalf of the owner and operator, under penalty of law, that the report was prepared in accordance with the rule and that the information is true and accurate.

If you would like more information about the rule, you can find a complete copy of all 711 pages along with the 591-page preamble and other information about the rule on the EPA's website at: <http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>. You may want to wait to print a copy of the rule until it is published in the Federal Register, where it will likely be condensed to several fewer pages.

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