

## FACT SHEET

### FINAL MANDATORY GREENHOUSE GAS REPORTING RULE

#### FINAL GHG REPORTING RULE

On September 22, 2009, the U.S. Environmental Protection Agency (EPA) published its Final Mandatory Greenhouse Gas Reporting Rule. 40 CFR 98. This action includes final reporting requirements for 31 emission sources including municipal solid waste landfills and stationary combustion units. In general, the threshold for reporting for the identified emission sources is 25,000 metric tons or more of carbon dioxide (CO<sub>2</sub>) equivalent per year. EPA has reserved when it will finalize remaining contemplated source categories of emissions, including emissions from wastewater treatment systems.

#### FINAL RULE OVERVIEW

The EPA Administrator signed the proposed rule for mandatory GHG reporting on March 10, 2009. It was published in the Federal Register on April 10, 2009. EPA received almost 17,000 written comments on the proposed rule and heard from approximately 60 people at the two public hearings. The final rule reflects changes EPA made as it carefully considered and responded to significant comments.

The GHGs subject to reporting requirements include: carbon dioxide; methane; nitrous oxide; hydrofluorocarbons; perfluorocarbons; sulfur hexafluoride; and other fluorinated gases. GHGs vary in their capacity to trap heat and how long they remain stable in the atmosphere. Because GHGs have these different properties, they are not directly comparable without translating them into common units.

The *Global Warming Potential (GWP)*, a metric that incorporates both the heattrapping ability and atmospheric lifetime of each GHG, is used to develop comparable numbers by adjusting all GHGs relative to the GWP of carbon dioxide. When quantities of the different GHGs are multiplied by their GWPs, the different GHGs can be compared on a *carbon dioxide equivalent* basis. For example, the GWP of carbon dioxide is one; the GWP of methane is 21; and the GWP of nitrous oxide is 310.

Reporting is at the facility level, except that certain suppliers of fossil fuels and industrial GHGs along with vehicle and engine manufacturers will report at the corporate level. A *facility* is defined as any property, plant, building, structure, source, or stationary equipment located on one or more contiguous properties in actual physical contact or separated solely by a roadway or other right-of-way and under common ownership or control, that emits or may emit any GHG. Facilities and suppliers will begin collecting data on January 1, 2010. The first emissions report (for emissions during 2010) is due March 31, 2011.

For facilities that are required to report, a monitoring plan must be in place by April 1, 2010. The plan must identify responsibilities (i.e., job titles) for data collection, explain processes and methods used for data collection, describe the QA/QC procedures for monitors. The Monitoring Plan may rely on references to existing corporate documents (e.g., standard operating procedures) and best available monitoring methods may be used

during January 1, 2010 through March 31, 2010. A facility must begin following all applicable monitoring and QA/QC requirements on April 1, 2010.

Once subject to a reporting requirement, a facility would be required to continue to submit reports even if it falls below the reporting threshold in future years. However, if a facility's annual emissions are less than 25,000 MT CO<sub>2</sub>e for 5 years; or 15,000 MT CO<sub>2</sub>e for 3 years, it may discontinue reporting. A facility must notify EPA that it will cease reporting and state the reason for the reduction. If emissions exceed 25,000 MT in the future, the facility must resume reporting immediately for that year. Consequently, the facility will need to continually evaluate its GHG emissions.

While the final rule only requires *reporting* of GHG emissions, it may be a prelude to more onerous EPA regulation of GHGs. Currently the Obama administration is reviewing an EPA final "endangerment finding" that GHG emissions are a threat to the public health and welfare. Such a finding, if approved, would allow EPA to regulate GHG emissions under the Clean Air Act.

## EVALUATION PROCESS OVERVIEW

The process for determining the requirement to report GHG emissions includes evaluation of "four doors," which may trigger applicability under the final rule. Three of the "doors" apply to "downstream sources" and one applies to "upstream sources."

**Door 1 – 40 CFR 98.2(a)(1).** A facility that contains **one or** more of 17 identified source categories triggers reporting, regardless of annual emissions. These source types were deemed by EPA to be significant emitters of GHGs. If reporting is triggered, all sources from the facility must be included according to the calculation methods set forth in Subparts C –JJ of the Rule.

**Door 2-40 CFR 98.2(a)(2).** Assuming that a facility does not operate any source categories listed in 40 CFR 98.2(a)(1), reporting through Door #2 is triggered for:

- (1) Any facility emitting at least 25,000 Metric Tons (MT) CO<sub>2</sub>e from a combination of:
  - (i) Stationary fuel combustion equipment, AND
  - (ii) Municipal Solid Waste Landfills;
  - (iii) Manure Management Systems; and
  - (iv) All source categories listed in Table 2.
- (2) If reporting triggered, include all sources for which calculation methods are provided in Subparts C –JJ.

**Door 3 – 40 CFR 98.2(a)(3).** Any facility that meets ALL THREE of the following criteria triggers reporting through Door #3:

- (1) Reporting not triggered through Door #1 or #2; AND–
- (2) The aggregate maximum rated heat input capacity for stationary combustion equipment is 30 mmBtu/hr or greater; AND

- (3) The facility emits at least 25,000 MT CO<sub>2</sub>e/yr.

For these facilities, the annual GHG report must cover emissions from stationary fuel combustion sources only. If the maximum rated heat input capacity for all stationary fuel combustion equipment is less than 30 mmBtu/hr, then the facility is presumed to emit less than 25,000 metric tons of CO<sub>2</sub>e and the facility is not required to calculate or report emissions. The Rule contains exemptions for: portable equipment, emergency generators and emergency equipment, irrigation pumps at agricultural operations, flares (unless required to use Subpart C by another subpart).

**Door 4 – 40 CFR 98.2(a)(4)**. A supplier in ANY of the listed supplier categories: (1) coal-based liquid fuel suppliers; (2) petroleum product suppliers; (3) natural gas and NGL suppliers; (4) industrial GHG suppliers; and (5) carbon dioxide suppliers.

### **PENALTIES**

The failure to report could potentially subject the person to Clean Air Act enforcement including injunctive relief and penalties (under the CAA) of up to \$32,500 per day.