

Reporting and disclosure: The US Environmental Protection Agency's mandatory reporting rule for greenhouse gases

The agency has proposed a rule that would require the monitoring and reporting of greenhouse gas emissions for the purpose of informing national climate change policies.

Why the new rule and what does it signify?

Directed by Congress

Congress has directed the United States Environmental Protection Agency (USEPA) to establish a rule for the mandatory reporting of greenhouse gas emissions.

Getting the baseline

In total, about 85%-90% of US GHG emissions, from approximately 13,000 facilities, would be subject to inventory by the USEPA. The data would be used to inform future policy decisions and serve as a benchmark to measure annual progress towards emissions reduction targets.

Start, renew or intensify your efforts

The proposed rule is widely seen as a first step towards comprehensive national climate change regulation. As companies work to comply with the proposed rule, they should remain focused on the larger picture of preparing for federal mandates to reduce greenhouse gas emissions. Reducing emissions is not just a question of compliance, but also of business performance.

A mandatory reporting rule moves the US one step closer to comprehensive regulation of greenhouse gas emissions

The USEPA has proposed a rule for mandatory reporting of greenhouse gas emissions in response to the FY 2008 Consolidated Appropriations Act.¹

Largely seen as the first major step towards national comprehensive greenhouse gas emissions regulation, the proposed rule requires annual reports to the USEPA so that the agency can calculate a baseline measurement of emissions. The baseline will be used to establish the right economic levers to drive GHG emissions down.

According to the proposed rule, any owner or operator of a facility in the US that directly emits greenhouse gases from a list of defined source categories or emits 25,000 metric tons or more of carbon dioxide emissions annually from stationary combustion would be required to report emissions data.

The first report would be due in 2011 for calendar year 2010, except for motor vehicle and engine manufacturers, which would begin reporting for model year 2011.

The USEPA will publish the proposed rule in the Federal Register shortly, after which the rule is subject to a 60-day public comment period. Once the comment period has closed, the agency will consider all comments and issue a final rule, likely within months.

Preparing for mandatory reporting to the USEPA

Companies subject to the rule should compare any current measurement and reporting methods with the requirements of the proposed rule. The design of the review—which includes examining systems, processes and controls—should consider that reported data are subject to verification by the USEPA and that the data may be used as a baseline measurement for a company's obligations under a future federal cap-and-trade system or a carbon tax.

In its role as verifier, we believe the USEPA may view companies with no previous record of voluntary reporting as having a higher risk of error, and

therefore seek out those companies in their verification process. Companies with no previous track record of reporting can be ready, however, with good planning and rapid implementation.

Although third-party verification is not required in the proposed rule, it is required for many other reporting programs, including The Climate Registry, California AB 32, the Regional Greenhouse Gas Initiative (RGGI), the European Union's Emissions Trading System (EU-ETS) and the nascent Western Climate Initiative (WCI). Companies participating in programs that require third-party verification will want to ensure that their verification process also considers this new rule.

Who would be required to report GHG emissions?

Sector	Reporters
Electricity generation	Power plants
Transportation	Vehicle and engine manufacturers
Industrial	All large industrial emitters, including those in the following industries: <ul style="list-style-type: none"> • Metals: Iron and steel, aluminum, magnesium, ferroalloy, zinc and lead • Minerals: Cement, lime, glass, silicon carbide, pulp and paper • Chemicals: HCFC-22, ammonia, nitric acid, adipic acid, SF6 from electrical equipment, hydrogen, petrochemicals, titanium dioxide, soda ash, phosphoric acid, electronics, titanium dioxide • Oil and gas: Components of oil and gas systems (e.g. refineries), underground coal mining
Other	Landfills, wastewater treatment, ethanol, food processing
Agriculture	Manure management
Upstream suppliers	Petroleum refineries, gas processors, natural gas distribution companies, coal mines, importers, industrial gases

Source: United States Environmental Protection Agency

¹ H.R. 2764; Public Law 110-161

Companies subject to the rule should start, renew or intensify efforts to prepare for federal mandates to reduce greenhouse gas emissions

PwC believes that companies should begin working to comply with the rule, yet remain focused on the larger picture of preparing for federal mandates to reduce greenhouse gas emissions. Reducing emissions is not just a question of compliance, but also of business performance.

There are several steps that your company can and should be actively pursuing now:

- 1. Assess overall readiness for changes in both energy and climate change policy.** Policy changes will likely touch many different aspects of your business. Start with a landscape view of how different business and functional units will need to evolve and the degree to which those functions are currently prepared.
- 2. Participate in policy discussions.** Your views are needed contribute to the effectiveness of future policy decisions. Use the 60-day comment period for this proposed rule and continue to participate in policy discussions for other climate and energy-related bills.
- 3. Re-check enterprise risk evaluations.** Re-check environmental, regulatory and financial risk assumptions, which include how the climate-energy picture will influence business opportunities, capital expenditures, utilization and maintenance. Evaluate not only your own

organization, but also request similar information from your key suppliers. Determine the extent to which your company is obligated to disclose those risks in existing external reporting, either SEC filings or sustainability reports.

- 4. Engage your finance team.** Engage your finance team early to determine the potential financial impact of a federal cap-and-trade system, whereby your company would be required to buy GHG emissions allowances. Align carbon-related asset development and trading to corporate objectives, and link your carbon assets and liabilities to your financial reporting system and your financial audit.
- 5. Align reduction methods with strategic objectives.** A clear business strategy that also reduces GHG emissions relies on an accurate emissions baseline and an ongoing assessment of risk. Understand where the business case for reducing emissions warrants early action and devise reduction methods that support strategic initiatives.
- 6. Mobilize functional units.** This means all functions of an organization should work together to support carbon management. Incorporate risk calculations and forecasts for carbon values into investment decisions, such as mergers and acquisitions and the capital budgeting process.

Evaluate tax incentives to support GHG reduction efforts and use them to your advantage. Establish or reinforce energy efficiency programs and supply-chain integrity initiatives that protect against disruptions that may arise from climate risk.

- 7. Report credibly to all stakeholders.** Mandatory reporting will allow investors to assess risk and citizens to negotiate directly with owners of facilities. Therefore, all companies will want to report in a credible, consistent fashion to avoid potentially costly restatements or penalties. The USEPA has proposed a five-year data-retention policy that will include detailed records on how calculations are made and who is accountable for the process and the reporting.

All companies subject to the rule need to have an accurate measurement of greenhouse gas emissions and use that information to make thoughtful, informed decisions. Diligent preparation today will give your company a better measure of control over the emerging risks related to climate change.

Q&A

Where is the proposed rule published?

The USEPA has published the proposed rule on its website, see: <http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>

Under the proposed rule, would my company be required to report?

If you own or operate a facility that emits GHGs from any designated source category, you would be required to report. Owners of facilities that do not match the list of source categories will need to determine if any of their facilities emit 25,000 metric tons or more of carbon dioxide equivalent annually from stationary combustion. If yes, reporting would be required under the proposed rule. The USEPA provides detailed guidance on how to determine who would be required to report on its website.

Would reporting be at the corporate level or the facility level?

In general, the proposed rule requires reporting from each source of greenhouse gas emissions, which means that most companies will report data at the facility level. There are some exceptions for companies who already participate in existing

USEPA reporting programs or where corporate reporting is more feasible.

Which greenhouse gases are included in the proposed rule?

The greenhouse gases included in the proposed rule are carbon dioxide (CO₂), methane (CH₄), nitrous oxides (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF₆) and other fluorinated gases, including nitrogen trifluoride (NF₃) and hydrofluorinated ethers (HFEs). The first six of the gases listed are often referred to as the six priority Kyoto gases, as they were GHGs targeted for reduction by the Kyoto Protocol.

Does the proposed rule apply to foreign-owned facilities in the US?

Yes. The rule states that any owner or operator of a facility in the US that directly emits GHGs from the designated source categories or emits 25,000 metric tons or more of carbon dioxide emissions annually would be required to report.

Does the proposed rule apply to both importers and exporters of industrial GHGs?

Yes. The rule states that both importers and exporters of industrial

greenhouse gases or CO₂ with total bulk imports or exports that exceed the 25,000 metric ton emissions threshold would be required to report.

How will the USEPA conduct its verification?

The USEPA calls for a system by which reporters self-certify emissions data. The USEPA will then perform verification on the reports. We expect the agency will conduct verification of selected reports in accordance with existing emissions reporting programs. This includes spot checks at approximately 20% of reporting facilities. Due to the size of the program, and the pending nature of the final rule, that system may be subject to change.

How soon could federal regulation to reduce GHGs take effect in the US?

The House and Senate are working on a plan that will position the US as a global leader on climate change policy in post-Kyoto discussions in Copenhagen in December 2009. Progressive estimates place implementation of any such US legislation towards 2012–2013.

How can PwC help?

To have a deeper discussion about the proposed reporting rule or other climate change related reporting and disclosure, please contact:

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