

# E – OUTLOOK

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*Editor's Note: In this issue, Suzanne Lacampagne of Miller Nash LLP, summarizes a rule recently finalized and adopted by the federal Environmental Protection Agency requiring the reporting of greenhouse gases from certain sources. Representing Oregon industries, Ms. Lacampagne is a member of the Department of Environmental Quality Greenhouse Gas Reporting Advisory Committee.*

## **EPA Issues Nationwide Greenhouse-Gas Reporting Rule**

EPA committed to address emissions of greenhouse gas ("GHG") in 2009. And it did. On September 22, 2009, EPA issued a final rule requiring many sources nationwide that emit GHG to monitor and report their annual GHG emissions. Facilities that emit 25,000 metric tons or more of GHG per year must file reports on their 2010 GHG emissions in 2011; vehicle and engine manufacturers must begin phasing in GHG reports starting with model year 2011. EPA believes that the reporting system will collect information on 85 percent of the nation's GHG emissions and will apply to about 10,000 facilities. The purpose of the rule is to collect accurate information on the actual sources of GHG emissions to give EPA better information to develop future programs to reduce emissions.

### **Who must report?**

The rule applies to (1) facilities that emit 25,000 metric tons or more of carbon dioxide ("CO<sub>2</sub>") equivalent per year; (2) fossil fuel and industrial GHG suppliers; and (3) motor vehicle and engine manufacturers. Reporting must be done at the facility level, not entity-wide.

### **What must be reported?**

The gases covered by the rule are CO<sub>2</sub>, methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), sulfur hexafluoride (SF<sub>6</sub>), and other fluorinated gases including nitrogen trifluoride (NF<sub>3</sub>) and hydrofluorinated ethers (HFE).

### **When does monitoring and reporting start?**

Facilities and suppliers must begin collecting information on January 1, 2010, and submit annual emission reports starting March 31, 2011, for 2010 emissions. Vehicle and engine manufacturers (outside of the light-duty sector) must begin reporting CO<sub>2</sub> for model year 2011 and other GHGs in subsequent model years.

**How will GHG emissions be measured?**

Facilities will take direct measurements, using facility-specific quantifications (e.g., fuel use times an appropriate emission factor). The rule includes reporting protocols and allows best available monitoring methods to be used until March 2011.

**How will GHG reports be verified?**

EPA, not third parties, will verify data.

**Who is exempt from reporting?**

EPA exempted wastewater treatment facilities, food processors, oil and natural gas systems, and industrial (but not municipal solid waste) landfills.

**How does the federal rule affect state reporting rules?**

Oregon and several other states have already issued state-only GHG reporting rules, which do not necessarily track the federal rule. For example, DEQ's GHG reporting rule covers only about a third of all GHGs, largely because it excludes the transportation sector. The federal rule will not preempt state rules and allows states to gather additional information. But Oregon DEQ is already looking closely at the federal rule to see whether Oregon should more closely track the federal rule, or adopt it entirely at some point, to avoid inconsistent or redundant reporting requirements on industry. DEQ's Greenhouse Gas Advisory Committee fortuitously met on September 23, the day after EPA issued its rule, and discussed the effects of the EPA rule. It is too early to tell what DEQ will do.

**For more information:**

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