

Massachusetts Proposes to Broaden Greenhouse Gas Emissions Reporting Requirement

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The Massachusetts Department of Environmental Protection (DEP) has proposed amendments to the mandatory greenhouse gas (GHG) emissions reporting regulation that it issued in December 2008. The regulation requires that certain high-emitting facilities, which may include large developments of all types, such as very large shopping malls, and academic and research campuses, report their GHG emissions to the state annually, in order to inventory statewide emissions for further climate change regulation.

As originally adopted, the regulation required registration by facilities that emitted over 5,000 tons of carbon dioxide (CO₂) during 2008, as well as facilities that reported air emissions under the federal Clean Air Act Title V and combusted any fossil fuel that resulted in CO₂ emissions during 2008. *Beginning on April 15, 2010, the DEP will begin requiring the annual submission of reports of CO₂ emissions during the previous calendar year.*

The proposed amendments integrate provisions on verification, voluntary reporting, and retail sale of electricity, as required by 2008's Climate Protection & Green Economy Act. Moreover, the amendments would generally broaden applicability of the regulation. Once a facility is required to report emissions pursuant to the regulation in a given year, it will be required to continue to report emissions for each subsequent year, regardless of whether it meets the reporting threshold.

The amendments also add certification and verification requirements to the reporting requirements promulgated in December. For example, entities would be required to certify the accuracy and completeness of each emissions report. Most reporting entities would also be required to hire an approved third-party verification body once every three years to verify the GHG report for that facility. Massachusetts has been more insistent upon third-party verification than have other jurisdictions.

Furthermore, the proposed amendments would introduce a voluntary reporting option for all entities that are not subject to the mandatory reporting requirements pursuant to the regulation. While the triennial verification requirement would apply, voluntary reporters would not be subject to the "once in, always in" provision above. Voluntary reporting provides an opportunity for establishment as an environmental leader, as well as documentation of early action that could pay dividends under DEP's possible early-action credit program.

All written comments are due May 11, 2009.

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