

BLOCK FEDERAL CONTRACTOR GREENHOUSE GAS RULE

Block Federal Contractor Regulation That Create Unfeasible Reporting Requirements for Greenhouse Gas Emissions

Action Needed:

Ask House: Support
Mission not Emissions
Act (H.R. 3358)

This bill blocks a regulation requiring federal contractors to report technically unfeasible metrics for greenhouse gas emissions.

Background:

The proposed rule, Disclosure of Greenhouse Gas Emissions (GHG) and Climate-Related Financial Risk, introduces two new categories for federal contractors, “significant contractors” and “major contractors.” Significant contractors, with \$7.5 - \$50 million in federal contract obligations (not revenue) in the prior fiscal year, would have to inventory GHG Scope 1 (direct emissions, e.g., equipment fuel usage) and Scope 2 (indirect emissions, e.g., electricity) and complete an annual GHG emissions inventory. In addition, major contractors (who received more than \$50 million in the prior fiscal year) must report Scope 3 emissions (supply chain emissions, e.g., construction materials). Currently, there is no technically feasible metric to accurately measure GHG emissions at such levels.

AGC Message:

- **GHG Rule Threatens Small Businesses.** AGC is concerned about the establishment of technically unfeasible measures to address climate change that construction firms of all sizes, especially small businesses, cannot meet. Such measures threaten construction firms’ ability to compete in the federal marketplace and build infrastructure. The proposed GHG federal regulation will present a significant cost to small businesses in perpetuity. Regulators estimate the cost to small businesses to be over \$100M in the initial year of implementation and over \$62M in subsequent years.
- **Construction Industry is Already Reducing Carbon Emissions.** Contractors have improved their operational efficiency and environmental performance on projects via advancements in equipment, fuel, technology, and practices such as recycling and lean construction that reduce waste. According to a recent survey AGC conducted, almost 80% of respondents have policies in place to encourage recycling.
- **GHG Rule Would Increase Risk of Liability Under the False Claims Act.** As proposed, the GHG rule contemplates several new definitions and new reporting requirements around GHG. The completeness and accuracy of those disclosures will create challenges and potential risks for the disclosing contractor – including potential acts of “greenwashing” and violations of the False Claims Act and False Statements Act risks.
- **GHG Rule Would Assign Standard Setting to a Foreign-based and Non-Government Entity.** Congress launched an investigation into the FAR rule and expressed national security and trade secret concerns with this specific provision.