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Climate Disclosure Rule for Federal Contractors Proposed! 4 Things to Know

A few days ago, a trio of federal agencies – the Department of Defense, General Services Administration, and NASA – proposed changes to the Federal Acquisition Regulation (FAR) to require federal contractors to make certain climate-related disclosures, mostly about GHG emissions. Here is the [proposed rule](#) as published in the Federal Register. Comments are due by January 13th.

Here are 4 things to know:

1. **Applies to Both Public and Private Companies.** Unlike the SEC's proposed climate disclosure rule, the FAR proposal would apply to any company with federal contracts above the size that triggers the implementation of the proposed rule. This means that private companies with sizable federal contracts would be required to make this disclosure.
2. **"Major Contractors" Would Be Required to Make Scope 3 Emissions Disclosure and Set Science-Based Targets.** The FAR proposal splits contractors into two categories: "major contractors" and "significant contractors." "Major contractors" are those that received at least \$50 million in federal contract obligations during the prior fiscal year. "Significant contractors" are those that received at least \$7.5 million in federal contract obligations during the prior fiscal year, but less than \$50 million.

The FAR proposal would require "major contractors" to annually disclose Scope 1, 2, and 3 emissions, as well as set science-based targets for GHG emission reductions and fill out the CDP Climate Change Questionnaire to assess their climate-related financial risks. The CDP disclosures could be made on a publicly accessible website - either on the company's website or through the CDP website. The science-based target disclosures would need to be validated by [STBi](#) at least every five years, and made available on a publicly accessible website. In comparison, the SEC's proposed climate disclosure rule would only require companies to disclose science-based targets if they had set them – it doesn't require companies to set them.

"Significant contractors" would be required to annually disclose Scope 1 and Scope 2 emissions, but not Scope 3 emissions nor set science-based targets. These disclosures would only be required through a federal contractor reporting system and not publicly. In addition, "major contractors" that qualify as small business would have to comply with the "significant contractors" requirements rather than the more expansive requirements for other "major contractors."

The FAR proposal relies on GHG Protocol Corporate Accounting and Reporting Standard to elicit GHG emissions disclosures under this rule proposal, much like the SEC's proposed rule.

3. **Nearly 5800 Companies Potentially Impacted.** As noted in the proposed rule, 1353 entities would qualify as major contractors – and 4413 entities would qualify as significant contractors.
4. **Failure to Adequately Disclose Would Result in Inability to Be Awarded Federal Contracts.** Under the FAR proposal, companies seeking a federal contract would be presumed "nonresponsible" (which essentially means unable to be selected for a federal contract) until the federal government's Contracting Officer determines that the company has complied with the climate disclosure rule.

Major and significant contractors would be deemed nonresponsible if they fail to comply with the FAR's disclosure obligation within one year of the proposed rule becoming effective. And major contractors would be deemed nonresponsible if they failed to complete the [CDP Climate Change Questionnaire](#) and set [science-based targets](#) within two years of proposed rule becoming effective.

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