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March 2009

**CLIMATE CHANGE AND
SUSTAINABLE BUSINESS
SOLUTIONS UPDATE****EPA Proposes Mandatory Greenhouse Gas Reporting Rule**

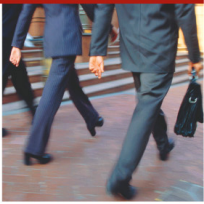
On March 10, 2009, the EPA issued a proposed rule for mandatory greenhouse gas (GHG) reporting from large GHG emissions sources in the United States (the "Proposed Rule"). The purpose of the Proposed Rule is to collect accurate and comprehensive national emissions data for future policy-making decisions, including the potential development of a cap-and-trade program. The Proposed Rule was issued in response to the FY2008 Consolidated Appropriations Act (Pub. L. 110-161), whereby Congress directed the EPA to propose a mandatory GHG reporting rule by September 2008. Although the EPA was late in its proposal, it still anticipates issuing a final rule by the congressional mandated deadline in June 2009.

The Proposed Rule would require suppliers of fossil fuels or industrial GHGs, manufacturers of vehicles and engines, facilities having one of the specified source categories (discussed below), and facilities that emit 25,000 metric tons or more per year of GHG emissions to submit an annual report to the EPA. Facilities that do not contain one of the specified source categories and have direct emissions below the 25,000 metric tons threshold would not be required to report.

The GHGs included in the proposed program are carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other fluorinated gases, including nitrogen trifluoride and hydrofluorinated ethers. All qualifying GHG emissions would need to be assessed and reported under the Proposed Rule. It is expected that the Proposed Rule will apply to approximately 13,000 facilities in the United States constituting 85 to 90 percent of the total national GHG emissions.

The Proposed Rule will apply to certain direct emission sources in energy-intensive sectors regardless of their actual GHG emissions. All of the facilities in 20 specifically identified source categories would be subject to the Proposed Rule. These source categories include adipic acid production, aluminum production, ammonia manufacturing, cement production, certain electric power and generating, electronics manufacturing, HCFC-22 production, certain HFC-23 destruction processes, lime manufacturing, certain manure management systems, certain landfills, nitric acid production, petrochemical production, phosphoric acid production, silicon carbide production, soda ash production, titanium dioxide production and certain underground coal mines. Thus, even if a lime manufacturing plant emitted less than 25,000 metric tons of GHGs in a reporting year, it would still be required to comply with the reporting requirements due to its inclusion in the energy-intensive source category.

If a direct emission source does not fall within the source categories mentioned above, it would still be subject to the reporting requirements if the source emitted 25,000 metric tons or more of GHGs.



Sources that would be included in this category include food processing, iron and steel production, pulp and paper manufacturing and industrial wastewater, among others. Thus, if a pulp mill emits 22,000 metric tons of GHGs in combined emissions from its facility, it would not be subject to the Proposed Rule's reporting requirements, because its emissions would not meet the necessary threshold.

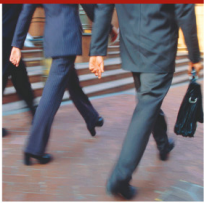
Even if a facility does not contain any direct emission sources listed in the first two categories of the Proposed Rule, the facility would still need to determine if it emits 25,000 metric tons or more of GHGs from any stationary combustion sources. If the facility contains a stationary combustion source that exceeds the threshold, it would be subject to the Proposed Rule's reporting requirements. For example, although an assembly plant is not listed under any category under the Proposed Rule, if the plant utilizes a coal-fired boiler that emits 25,000 metric tons or more of GHGs in a reporting year, the facility would be subject to the reporting requirements.

Alternatively, if a facility is a supplier of fossil fuels, it would also be subject to the Proposed Rule's reporting requirements. This category would include producers, importers and exporters of coal, coal-based liquid fuels, natural gas, natural gas liquids and petroleum products. A qualifying facility in this category would need to report the volume of fuel that is placed into the economy each year and the emissions associated with the complete oxidation of the fuel. Similarly, if a facility is a supplier of industrial GHGs, the facility would need to report the annual volume of product that is placed in the economy and the emissions associated with the complete release of the products. This category would include producers, importers or exporters supplying product that is equivalent to 25,000 metric tons or more of GHGs when released.

Mobile sources are also included under the Proposed Rule pursuant to reporting requirements on the manufacturers of new vehicle engines including passenger vehicles and heavy trucks, locomotive engines, marine engines, aircraft engines and other non-road engines and equipment. Further, the EPA is requesting comment on collecting additional data from mobile source fleet operators. These requirements, however, will not affect individual car or truck owners, who have no reporting obligations.

Most emission sources from the agriculture sector would not be covered by the Proposed Rule, except where a manure management system has emissions that meet or exceed the 25,000 metric ton threshold. However, as mentioned above, agricultural and commercial facilities could potentially become subject to the Proposed Rule's requirements if the facility has a stationary combustion source with emissions over the threshold amount. The EPA reported that it does not anticipate that the Proposed Rule will significantly affect smaller businesses due to the emission threshold.

The reporting methods for the Proposed Rule are largely based on existing GHG reporting programs and guidance such as the EPA's Acid Rain Program, Natural Gas STAR, U.S. Greenhouse Gas Inventory and state and regional registry programs, among others. No third-party verification is required for reported data. The EPA will assume the responsibility to verify such



information, but each facility must retain copies of all reports for five years for historical and verification purposes.

The EPA estimates that compliance with the Proposed Rule in the private sector will cost approximately \$160 million for the first year and \$127 million each year thereafter. The first report under the Proposed Rule would be due March 31, 2011 for 2010 emissions, except for vehicle and engine manufacturers whose reporting year begins for model year 2011.

The Proposed Rule is open for public comment for 60 days following publication in the Federal Register. Further, two public hearings will be held in April 2009 to solicit further comments on the proposal. The Proposed Rule and related documents can be found at www.epa.gov/climatechange/emissions/ghgrulemaking.html.

FOR MORE INFORMATION

If you would like more information, please contact Andrew Kolesar at 513.352.6545 or Andrew.Kolesar@ThompsonHine.com or Devin Barry at 216.566.5854 or Devin.Barry@ThompsonHine.com, or contact any Thompson Hine lawyer. For a list of our lawyers, please go to www.ThompsonHine.com/practices.

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