



THE ADMINISTRATIVE WATCH

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U.S. EPA to Require Greenhouse Gas Emission Reporting

On March 10, 2009, U.S. EPA issued a proposed rule that would require facilities within identified industry categories that emit 25,000 metric tons or more per year of greenhouse gas (“GHG”) emissions to file an annual emissions inventory report with U.S. EPA. The proposed rule will also cover certain suppliers of fossil fuels and industrial chemicals, as well as motor vehicle and engine manufacturers. The GHG emissions subject to the proposed reporting requirement are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), sulfur hexafluoride (SF₆), and other fluorinated gases, including nitrogen fluoride (NF₃) and hydrofluorinated ethers (HFE). The proposed rule does not establish new limits or control requirements for GHG emissions.

The proposed reporting requirements would apply to approximately 13,000 facilities, which account for between 85 and 90 percent of all GHG emissions in the United States. Industries subject to the proposed rule include cement production, iron and steel production, electricity generation, oil and gas, and coal mining. The proposed rule would require the first report for direct GHG emitters to be submitted to U.S. EPA in 2011 for calendar year 2010 emissions, or beginning with the 2011 model year for vehicle and engine manufacturers. Annual reports would be required to include a certification statement.

The FY2008 Consolidated Appropriations Act (Pub. L. No. 110-161), signed by President Bush on December 26, 2007, required U.S. EPA to develop and publish a final rule by June 2009, with mandatory reporting of GHG emissions “above appropriate thresholds in all sectors of the economy of the United States.” U.S. EPA is developing and issuing the GHG inventory rule under existing statutory authority of the federal Clean Air Act. In addition to proposing a GHG inventory rule, U.S. EPA is actively reviewing a number of climate change related policies from the Bush Administration, as well as direct regulation of GHG emissions under the Clean Air Act. President Obama has already stated his intent to pursue comprehensive national cap and trade legislation to control GHG emissions across many sectors.

A 60-day comment period on the proposed GHG reporting rule will begin upon publication of the proposed rule in the *Federal Register*, which is expected in the near future. Given the significant implications of the proposed reporting requirement, potentially affected industries should carefully monitor this rulemaking process and consider submitting comments to U.S. EPA. In light of the Congressional deadline, we expect U.S. EPA to quickly finalize the inventory rule after the comment period has ended.

BCCZ’s Environmental Health & Safety and Climate Change Groups actively track Clean Air Act and climate change legislative, regulatory, and policy developments at all levels of government, and advise clients as to the potential impacts of these developments. For more information regarding this and other climate change or Clean Air Act developments, please contact Michael H. Winek at (412) 394-6538 or mwinek@bccz.com or Seth A. Rice at (412) 394-5490 or srice@bccz.com.

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