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REGULATORY UPDATE

PROPOSED MANDATORY GREENHOUSE GAS REPORTING RULE

Scott J. Steiner - The public comment period for the USEPA's proposed Mandatory Greenhouse Gas Reporting Rule ended on June 9, 2009. The USEPA will now consider comments submitted during the 60-day period as it continues its rule-making process. The proposed rule would require mandatory reporting of annual emissions of six greenhouse gases (GHGs) which include carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), perfluorochemicals (PFCs), and other fluorinated gases. It would apply to certain facilities that emit GHGs and to suppliers of fossil fuels and industrial GHGs. Manufacturers of vehicles and engines would report GHG emissions under other existing rules. Reporting would be at the facility level in most cases. A facility's obligation to meet reporting requirements would be based on the source category of emissions and, in some cases, the volume of emissions generated. Facilities required to meet reporting requirements without regard to volume of emissions would include those involved in aluminum production, ammonia manufacturing, cement production, certain electric power systems, certain electricity generating and electronics manufacturing facilities, HCFC-22 production, lime manufacturing, certain manure management systems, landfills, nitric acid production, petro chemical production, petroleum refineries, phosphoric acid production, silicone carbide production, soda ash production, titanium dioxide production and underground coal mines. Others subject to regulation based on emitting more than the threshold of

25,000 metric tons of carbon dioxide equivalent emissions include facilities involved in electricity generation, photo voltaic manufacturing, ethanol production, ferroalloy production, fluorinated greenhouse gas production, food processing, glass production, hydrogen production, industrial landfills, iron and steel production, lead production, magnesium production, oil and natural gas systems, pulp and paper manufacturing, industrial wastewater and zinc production. In addition, any facility which emits 25,000 metric tons or more from stationery combustion sources such as boilers, secondary engines, process heaters, combustion turbines, or other fuel combustion equipment would be obligated to meet reporting requirements. Under the new rule, reports would be submitted electronically in a format specified by the USEPA and all records must be retained for five years in electronic or hard copy format. The first annual reports would be required in 2011 based on emissions for calendar year 2010. This rule is seen as a first step in a comprehensive greenhouse gas regulatory framework at the federal level.

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