

September 23, 2009

EPA Releases Final Rules for Reporting Greenhouse Gas Emissions

On September 22, 2009, EPA released its final rules for the reporting of greenhouse gas (GHG) emissions, impacting a wide range of businesses. The importance of these reporting requirements is enhanced because of the likelihood that either Congress will adopt a cap and trade GHG reduction program, EPA will move to regulate GHG under the existing federal Clean Air Act, or both.

The final rules are generally applicable to certain GHG emitters including oil refineries, petrochemical facilities, cement makers, and electricity generators. Other specified facilities that emit 25,000 metric tons of carbon dioxide equivalent or more per year are also required to report. Similarly, certain suppliers (producers, importers or exporters) of fuels and GHGs must report regardless of the quantities supplied, while other specified suppliers must report if the amount supplied would result in emissions of 25,000 metric tons per year of carbon dioxide equivalent or more per year if combusted or used. The rules also are applicable to manufacturers of heavy-duty and off-road vehicles and engines. In the final rules, EPA reduces the number of source categories subject to the reporting requirements as compared to in the proposed rules.

The rules impose significant data gathering, analysis, and record keeping requirements upon businesses. In addition, because many of the thresholds are expressed in terms of emissions, rather than in terms of capacity or production, many businesses will have to undertake emissions calculations to determine if they are required to develop and submit the annual reports.

Entities subject to the reporting requirements must begin collecting data on January 1, 2010, submit their first annual report by March 31, 2011, and submit reports annually thereafter. The annual reports must be signed and certified. Unlike the proposed rules, the final rules contain provisions for an entity to be exempted from the reporting requirements if it later reduces or eliminates its GHG emissions. Additionally, the final rules reduce most of the proposed record retention requirements from five to three years.

If you would like to learn more about the rule, please contact:

[James D. Braddock](#)

512.867.8462

james.braddock@haynesboone.com

[Jeff Civins](#)

512.867.8477

jeff.civins@haynesboone.com

[Mary Mendoza](#)

512.867.8418

mary.mendoza@haynesboone.com