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EPA Proposes Rule for Greenhouse Gas Emissions Reporting

On March 10, 2009, EPA released its proposed rule for the reporting of greenhouse gas (GHG) emissions. This proposed rule is mandated by the Fiscal Year 2008 Consolidated Appropriations Act (H.R. 2764; Public Law 110-161) and will require a wide range of businesses to track and report their GHG emissions. In addition to this proposal, EPA is currently considering whether and, if so, how to regulate GHGs under the federal Clean Air Act.

The industries covered by the proposed rule include: oil refineries, petrochemical facilities, cement makers, electricity generators, food processing facilities, and pulp and paper manufacturers. The proposed rules generally apply to those emitting 25,000 tons per year of GHGs expressed in terms of carbon dioxide equivalent, based in most cases upon actual emissions rather than the potential to emit. The proposed rule also imposes reporting obligations upon manufacturers of vehicles and engines as well as fuel suppliers and industrial GHG suppliers.

The rule prescribes significant data gathering, analysis, and recordkeeping requirements. Because many of the thresholds are expressed in terms of emissions, rather than in terms of capacity or production, businesses may have to calculate their emissions to determine if the proposed rules will apply to them. As proposed, the rule would require a facility that becomes subject to the reporting rule to continue reporting even when its emissions fall below the applicable threshold.

Once the proposal is published in the Federal Register, EPA will accept comments. The agency has identified specific portions of the proposed rules for which it is particularly interested in receiving comments. Areas upon which EPA is soliciting comments include the relationship between the proposed program and existing GHG reporting programs, the GHGs covered and not covered by the proposal, appropriate reporting thresholds, methodologies for each source category, frequency of reporting, year of reporting and duration of the program.

If you would like to learn more about the proposed rule or commenting upon it, please contact:

[James D. Braddock](mailto:james.braddock@haynesboone.com)

512.867.8462

james.braddock@haynesboone.com

[Jeff Civins](mailto:jeff.civins@haynesboone.com)

512.867.8477

jeff.civins@haynesboone.com

[Mary Mendoza](mailto:mary.mendoza@haynesboone.com)

512.867.8418

mary.mendoza@haynesboone.com