

Even in Oklahoma, You Can't Hide From GHG Regulations

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By **Mary Ellen Ternes**

If you have tried to ignore any news with a hint of “climate change” or “greenhouse gas,” you might not be able to hide any longer. Sooner or later, recently adopted and upcoming federal rules are bound to affect every American, and they’re unrelated to “cap-and trade” legislation and that conference in Copenhagen. The U.S. Environmental Protection Agency is now implementing mandatory greenhouse gas (GHG) reporting requirements. With the EPA having just found that GHGs endanger us, it may soon be enforcing GHG permitting requirements.



Even if you’re not in a targeted industry sector, you need to read on. These developments will affect how cars and trucks are made, how energy is produced, how energy is used, how much everything will cost, and ultimately how we go about business as usual.

First, the reporting rule. Because the reporting rule has such a broad and immediate effect, businesses need to determine applicability and, if impacted, prepare quickly. To summarize, EPA’s “Mandatory Reporting of Greenhouse Gases” final rule becomes effective Dec. 29. It requires monitoring beginning Jan. 1, 2010, and submittal of the first round of annual GHG emission reports by March 31, 2011.

The final rule mandates GHG monitoring and reporting by specifically defined sources within 30 manufacturing and energy production industry sectors with facilities that emit specific GHGs such as carbon dioxide, methane and nitrous oxide. Some facilities report regardless of their GHG emissions, while others report only if their GHG emissions exceed 25,000 metric tons of carbon dioxide or equivalent GHG emissions. Greenhouse gases are reported based upon mass divided by their recognized “global warming potential.”

The final rule also requires reporting by indirect emitters of GHG, including suppliers of fossil fuels and industrial chemicals, and manufacturers of motor vehicles and engines, in addition to direct emissions from a broad catchall category called “general stationary fuel combustion

sources.” With this catchall category, facilities utilizing fossil fuels in units with a combined maximum heat input capacity of 30 MMBtu/hr must report. This capacity is in the range of facilities heating water for purposes such as hospitals, hotels and office buildings. Thus, this category has very broad applicability.

While you think about imminent implementation of this first mandatory GHG reporting rule, note the final rule will result in a public inventory of GHG emissions by reporting facilities at a time that could become problematic for the reporting entities.

Here’s how: In response to the Supreme Court’s historic 2007 decision, *Massachusetts v. EPA*, the EPA just finalized its GHG “Endangerment and Cause or Contribute Finding.” Next, the EPA will adopt new rules limiting GHG emissions from cars and trucks. This, in turn, will automatically trigger application of the Clean Air Act’s Prevention of Significant Deterioration and Title V permitting programs to major GHG emitters. Also, recent public nuisance cases indicate that courts may soon hear evidence of public nuisance based upon GHG emissions. And now, consider that federal GHG legislation is on the horizon. Into this coalescence of GHG policy, regulation, law and litigation, the public release of GHG actual emission data will be sure to greatly impact industry’s risk and decision-making processes.

Review the requirements of the mandatory GHG reporting rule using the resources the EPA provides at: <http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>.

Review the EPA’s climate-change rulemaking activities at: <http://www.epa.gov/climatechange/initiatives/index.html>.

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