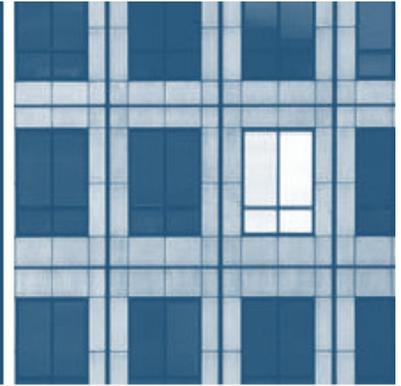


On the Subject



Energy & Commodities Advisory

April 7, 2010

The proposed amendments would bring the oil and natural gas industries within the scope of the rule requiring certain facilities to report their annual emissions of CO₂ and other greenhouse gases.

EPA Proposes to Expand the Mandatory Greenhouse Gas Emissions Reporting Rule

On October 30, 2009, the Environmental Protection Agency (EPA) finalized a rule mandating the reporting of greenhouse gas emissions from sources comprising 85 percent of total greenhouse gas emissions in the United States. *See* EPA Finalizes GHG Reporting Rule, Proposes New GHG Permitting Requirements located at http://www.mwe.com/index.cfm/fuseaction/publications.nldetail/object_id/cbd5f545-1532-44e9-804e-03ae2562f49c.cfm.

As initially drafted, the rule specifically excluded oil and natural gas production industries, as well as other sources from any reporting requirements. On April 6, 2010, the EPA announced public meetings to discuss a new proposed rule that would amend the Mandatory Reporting of Greenhouse Gases Rule to include sources of greenhouse gas emissions in the petroleum and natural gas sectors and facilities that inject or geologically sequester carbon dioxide that were previously excluded from the reporting requirements.

On April 19, 2010, the EPA will hold a public hearing in Arlington, Virginia, to discuss the proposed Subpart W of the Mandatory Reporting of Greenhouse Gases Rule. This new section would require industrial facilities to report vented and fugitive methane and carbon dioxide emissions from petroleum and natural gas facilities emitting 25,000 or more metric tons of carbon dioxide equivalent per year. Potentially affected by the change would be an estimated 3,000 facilities, including onshore petroleum and natural gas production, offshore petroleum and natural gas production, onshore natural gas processing, natural gas transmission, underground natural gas storage, liquefied

natural gas (LNG) storage, LNG import and export facilities and natural gas distribution facilities. The EPA has noted that this amendment was originally included in the Mandatory Reporting of Greenhouse Gases Rule, but was removed due to voluminous comments received on the proposal. The EPA chose to publish the rule without the petroleum and natural gas provisions in order to take additional time to review comments and craft an appropriate rule. The EPA has considered the comments it received and now reintroduced the subpart.

Also on April 19, 2010, the EPA will hold a public hearing in Arlington, Virginia, on Subpart RR of the proposed amendment, which would establish reporting requirements for facilities that inject carbon dioxide underground for the purposes of geologic sequestration or enhanced oil and natural gas recovery. Facilities that inject carbon dioxide for enhanced oil and natural gas recovery would be required under the amendment to report basic information on the amount of carbon dioxide injected. Facilities injecting carbon dioxide with the intent of providing geologic sequestration would face additional requirements relating to verification of the stability and sustainability of the sequestration.

Finally, the EPA announced that on April 20, 2010, it will hold a public hearing in Washington, D.C., to discuss five additional new subparts which would address reporting requirements for greenhouse gas emissions in the form of fluorinated greenhouse gases. The amended rule would address the production of these gases in electronics manufacturing, fluorinated gas production, the use of electric transmission and distribution equipment, imports or exports of equipment pre-charged with fluorinated greenhouse gases, and manufacture of electric transmission and distribution equipment. These amendments would require reporting by facilities or importers that emit 25,000 metric tons or more of carbon dioxide equivalent gas per year. Because these substances generally are highly potent greenhouse gases with very high carbon dioxide equivalence, facilities that emit relatively small amounts of certain other fluorinated gases, such as sulfur hexafluoride or nitrogen trifluoride, may be subject to the new reporting requirement.

The EPA estimates that this proposal would cover 95 percent of the total greenhouse gas emissions from these sources, or approximately 385 facilities. As with the reporting requirements proposed for the oil and natural gas industries, several of these reporting requirements were initially proposed under the original greenhouse gas reporting rule, but were removed, and then reintroduced recently as amendments. The EPA is still reviewing other provisions in the originally proposed rule, including reporting requirements for ethanol production facilities, underground coal mines and other coal suppliers.

The EPA will be receiving comments on the proposed amendments for the next 60 days. The EPA has expressed its intention to finalize this amendment this year, so that the new reporting requirements can be effective for 2011.

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