

“What keeps you up at night?”

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EPA issues proposed Greenhouse Gas Reporting Rule

By Carl B. Everett

On March 10, 2009, The U.S. Environmental Protection Agency (“EPA”) announced a proposed rule for reporting emissions of carbon dioxide and other greenhouse gases (“GHG”). The proposal is subject to a 60-day public comment period starting with publication in the Federal Register, which had not occurred as of March 23, 2009. Public hearings are scheduled for April 6, 2009 in Washington and April 16, 2009 in Sacramento. The EPA was directed by the 2008 federal appropriations bill to promulgate a final GHG reporting rule by June 26, 2009.

The proposal calls for annual reports of emissions. The first annual report covering calendar year 2010 would be due by March 31, 2011 except for vehicle and engine manufacturers, who would report beginning with model year 2011.

According to EPA, reporting would apply to about 13,000 sources with emissions of GHG of at least 25,000 metric tons per year (a metric ton is 1,000 kilograms or about 2,200 pounds). These facilities, which include power plants and other energy intensive sectors like automakers, iron and steel producers, chemical makers, cement producers, petroleum refineries as well as landfills and large manure management systems, are estimated to account for 85 to 90 percent of domestic greenhouse gas emissions.

A covered category called, “General Stationary Fuel Combustion Sources” includes facilities operating boilers, process heaters, incinerators, turbines and internal combustion engines. Specifically listed facilities within the category include health services and educational services. Also included are facilities with stationary fuel combustion units having an aggregated rated heat input capacity of 30 million BTU per hour or greater. The Council of Industrial Boilers has opined that this last item will reach large apartment buildings, hospitals and office complexes and will increase the number of affected facilities beyond 13,000.

Among the issues ripe for comment are the scope of affected facilities, especially those caught by the 30 million BTU per hour figure, and whether third-party verification should be mandated

instead of the proposed self-certification. Comments are also likely regarding the interplay between the EPA program and state and regional GHG reporting programs, including requirements under the Regional Greenhouse Gas Initiative.

Saul Ewing stands ready to assist clients during the comment process and on compliance issues once the regulation is finalized.

This Alert was written by Carl B. Everett, a Partner in the firm's Environmental Department. Carl can be reached at 215.972.7171 or ceverett@saul.com. This publication has been prepared by the Environmental Department for information purposes only.

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