

## Greenhouse Gas Reporting Deadline Approaches for Most Subject Industries

February 28, 2011

March 31, 2011 is the deadline for the first annual reports due under the Mandatory Reporting for Greenhouse Gas Emissions Rule (Mandatory Reporting Rule or the Rule) that the U.S. Environmental Protection Agency (EPA) published in the October 30, 2009 *Federal Register*. EPA continued to amend the Mandatory Reporting Rule and to issue guidance documents after adoption of the Rule, including during the compliance period. Companies should take time during the month of March to review the data they have collected and intend to report and verify that their reports meet the latest requirements of EPA's greenhouse gas (GHG) reporting program. Now is also a good time for facilities to verify that the data collection and management systems they created to comply with the Mandatory Reporting Rule perform as required and that those systems continue to meet the requirements of the Rule for the 2011 data collection period.

The Mandatory Reporting Rule requires facilities from designated source categories to collect data, maintain records, and report emissions data of the principal GHGs annually (beginning in calendar year 2010) by March 31 of the following year. The Rule covers the principal GHGs, including carbon dioxide, methane, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, perfluorocarbons, and other fluorinated gases. The Mandatory Reporting Rule applies to six groups of GHG emission sources: (1) 17 designated source categories regardless of their emissions; (2) facilities with operations in one of seven specified source categories (ferroalloy production, glass production, hydrogen production, iron and steel production, lead production, pulp and paper manufacturing, and zinc production) that emit 25,000 metric tons of carbon dioxide equivalent (CO<sub>2</sub>e) GHGs per year from the combustion of fossil fuels and miscellaneous uses of carbonates; (3) facilities that have an aggregate maximum rated heat input capacity of at least 30 mmBtu/hr and emit at least 25,000 metric tons CO<sub>2</sub>e of GHGs per year from all stationary fuel combustion sources; (4) fossil fuel suppliers; (5) suppliers of industrial GHGs; and (6) manufacturers of vehicles and engines outside of the light-duty sector.

Following adoption of the Mandatory Reporting Rule, EPA posted guidance materials, provided training sessions, and established an online system for reporting entities to use to register before submitting their reports by March 31. In separate rulemaking, EPA deferred the requirement to report certain data inputs that facilities used in calculating their GHG emissions, but retained the requirement for facilities to collect and maintain this data. EPA also adopted new regulations adding additional industries to the mandatory reporting requirements starting in calendar year 2011. As a result of these new regulations, some businesses will be required to submit an annual report this March for GHG emissions from combustion or fossil fuel delivery operations that does not include all the data collected, and next March submit a report for these operations as well as for GHG emissions from equipment leaks under the

newer regulations. Despite the uncertainty inherent in any new program and the additional complications caused by the large volume of guidance documents and new rulemaking, EPA has indicated that it will consider taking enforcement action against companies that fail to comply with the Mandatory Reporting Rule.

Please contact any of the Morgan Lewis attorneys listed below if you have any questions about the requirements or deadlines discussed in this LawFlash.

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