

## ***EPA PROPOSED RULE WOULD REQUIRE REPORTING OF GREENHOUSE GAS EMISSIONS***

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On March 10, 2009, the U.S. Environmental Protection Agency ("EPA") issued a proposed rule entitled "Mandatory Reporting of Greenhouse Gases." This proposed rule would cover approximately 13,000 facilities in the United States, which account for between 85% and 90% of green house gas emissions. Under the proposed rule, suppliers of fossil fuels or industrial greenhouse gases, manufacturers of vehicles and engines, and facilities emitting 25,000 metric tons or more of greenhouse gas emissions per year would be required to submit annual emission reports to EPA. Affected industries include cement production, aluminum production, semiconductor manufacturing, pulp and paper manufacturing, industrial and municipal landfills, food processing, electronics and photovoltaic manufacturing, certain agricultural sources, oil and natural gas systems and suppliers of coal, natural gas and petroleum products. Because the rule would impose new requirements on so many different and varied industries, careful review of its potential coverage and requirements will be crucial for businesses potentially affected by the proposal.

More specifically, the proposed rule requires covered facilities to report emissions of several contaminants, such as carbon dioxide, methane, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, perfluorochemicals and other fluorinated gases, for which reporting by the industry sector previously may not have been required. EPA proposes that the data collection will begin on January 1, 2010, and the first reports will be due on March 31, 2011 for all covered facilities except for vehicle and engine manufacturers, who are required to begin reporting for the 2011 model year. The actual data required to be reported and the associated required recordkeeping varies somewhat by source. For example, the rule imposes specific reporting requirements for engine manufacturers, regarding the emissions from the manufactured product, that are in addition to the reporting requirements for the manufacturing facility itself. The proposed rule

also includes information regarding new proposed measurement methods and establishes thresholds for the covered pollutants.

The proposed rule builds on existing reporting requirements for some sources but requires additional reporting as well. For example, 40 CFR Part 75 already requires electric generating units ("EGUs") to report carbon dioxide emissions. While the proposed rule does not require additional carbon dioxide reporting for EGUs beyond the current regulatory requirements, it does require EGUs to supplement their reporting to include the newly covered pollutants (methane, nitrous oxide, etc.).

EPA intends to use the data gathered to inform future decision making regarding transportation-related emission limits, best-available control technology determinations and establishment of new source performance standards for some combustion sources. The data will also supplement the top-down estimates of greenhouse gas emissions that EPA is required to report annually in the "Inventory of U.S. Greenhouse Gas Emissions and Sinks" and will likely be used in the development of a cap-and-trade program.

Visit <http://www.epa.gov/climatechange/emissions/ghgrulemaking.html> for a copy of the proposed rule. EPA requests comments on a number of issues. Written comments will be due 60 days after the proposed rule is published in the Federal Register and may be submitted via email to [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov), through the U.S. Mail to Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 6102T, Attention: Docket ID No. EPA-HQ-OAR-2008-0508, 1200 Pennsylvania Ave., NW, Washington, DC 20460 or through the Federal rulemaking portal at <http://www.regulations.gov>.

If you have questions about the proposed rule, the rulemaking and comment process or the impact the proposed rule may have on your business, please contact Peter Tomasi in Milwaukee at 414-277-5677 / [peter.tomasi@quarles.com](mailto:peter.tomasi@quarles.com), Roger Ferland in Phoenix at 602-229-5607 / [roger.ferland@quarles.com](mailto:roger.ferland@quarles.com), Cindy Faur in Chicago at 312-715-5228 / [cynthia.faur@quarles.com](mailto:cynthia.faur@quarles.com) or your Quarles & Brady LLP attorney.