

Environmental & Safety Report

Deadline Looms for Greenhouse Gas Recordkeeping; Extensions of Time Available

Lost in the flurry of alerts and articles parsing and analyzing the new as-yet-unpublished-but-nevertheless-final GHG Mandatory Reporting Rule ("GHG MRR") is the stark reality that the requirements for beginning data collection under the rule are a mere nine weeks away. Further lost might be the fact that many non-traditional industries such as commercial, industrial, or institutional facilities with fuel combustion sources (such as boilers or heaters with an aggregate maximum rated heat input capacity of greater than 30 mmBtu/hr) may be subject to these new requirements. Data collection under the GHG MRR for affected facilities* begins as of January 1, 2010, and is recommended not only for those companies specifically affected by the rule, but also for companies that will need to demonstrate they are NOT affected facilities because their level of GHG emissions does not exceed the 25,000 metric tons per year CO₂e trigger.

The methods for collecting data are very specific, and many companies may need to purchase, install, and begin to use measurement and monitoring devices prior to the January 1, 2010 start date for data collection. Other companies will need to ensure existing data collection and monitoring equipment are properly calibrated and meet USEPA standards. Again—in a few short weeks facilities that do not currently have flow meters and other data measurement devices will have to purchase, install, calibrate, and begin to effectively utilize such devices, unless the facilities can demonstrate the need for, and obtain, an extension of time, or obtain approval of alternative monitoring methods.

The GHG MRR has provisions for obtaining an extension of time (from January 1 to March 31, 2010) for facilities that cannot reasonably measure parameters because they are unable to have the requisite equipment and instrumentation installed by January 1, 2010; the deadline for extensions of time is January 31, 2010. There are also extensions of time available for facilities unable to meet calibration deadlines. Seyfarth's Environmental, Safety & Toxic Torts group can assist facilities in obtaining extensions of time in accordance with USEPA procedures, in obtaining approval of alternative monitoring methods, and in properly documenting applicability or non-applicability based on emissions that do not meet the thresholds for the GHG MRR. We are also able to assist facilities in protecting Confidential Business Information.

For more information about GHG MRR matters, or other issues relating to climate change and managing greenhouse gas emissions, please contact Eric Boyd (eboyd@seyfarth.com) or Jeryl Olson (jolson@seyfarth.com) or any *Environmental, Safety & Toxic Torts attorney* on our website.

*Affected facilities are those in any of 17 industrial source categories that must collect data and report regardless of GHG emissions levels (Group 1); those in seven industrial source categories who must report if their emissions exceed 25,000 metric tons CO₂e annually (Group 2); facilities not in Groups 1 or 2 that have a fuel combustion capacity of greater than 30 mmBTU/hr, and have greater than 25,000 metric tons CO₂e emissions (Group 3); and 5 GHG supplier categories (Group 4).