

# ADVISORY

**SULLIVAN & WORCESTER CLIMATE-RELATED BUSINESS & TECHNOLOGY GROUP CLIENT ADVISORY**

## EPA Issues Four Proposed Rules to Modify Mandatory Greenhouse Gas Emissions Reporting Requirements

**Comment Period Open Until June 11, 2010.**

The U.S. Environmental Protection Agency (“EPA”) has proposed four new rules to amend the Agency’s mandatory greenhouse gas (“GHG”) [reporting rule](#). The reporting rule, codified at 40 C.F.R. Part 98, applies to sources that emit more than 25,000 metric tons of carbon dioxide-equivalent GHGs per year. Covered facilities were required to begin measuring emissions on January 1, 2010, and must file their first reports by March 31, 2011. *See* 74 Fed. Reg. 56,260 (Oct. 30, 2009).

Three of the proposed rules would expand emissions reporting requirements to include new categories of facilities – petroleum and natural gas systems, 75 Fed. Reg. 18,608 (Apr. 12, 2010); certain facilities that produce and use fluorinated gases, *id.* at 18,652; and carbon sequestration facilities, *id.* at 18,576. For the most part, petroleum and natural gas systems and facilities that produce and use fluorinated gases were included initially in the original proposal for the existing GHG reporting rule, but were not part of the final rule because of concerns raised during the public comment period. Carbon sequestration facilities were not included in the initial proposed reporting rule, but were identified in the public comments as a source of data concerning the amount of GHGs that are permanently sequestered. In general, EPA is seeking comment on the data to be reported by each new category, as well as the methods for monitoring, reporting, and verifying this data. If the proposed rules are adopted, the facilities identified would be required to begin collecting data in January 2011, and file their first reports by March 31, 2012.

The fourth rule would require each reporting facility, as part of its annual emissions report, to identify its U.S. parent company(ies), provide its North American Industry Classification System (“NAICS”) codes, and declare whether or not its reported emissions include emissions from a cogeneration (combined heat and power) unit. 75 Fed. Reg. 18,455 (Apr. 12, 2010). The additional reporting requirements would apply both to facilities currently covered by the

**IF YOU WOULD LIKE ADDITIONAL INFORMATION, PLEASE CONTACT:**

Jerome C. Muys, Jr.  
202.370.3920  
jmuys@sandw.com

Jeffrey M. Karp  
202.370.3921  
jkarp@sandw.com

Victor N. Baltera  
617.338.2945  
vbaltera@sandw.com

**WASHINGTON, DC**  
Sullivan & Worcester LLP  
1666 K Street, NW  
Washington, DC 20006

**BOSTON**  
Sullivan & Worcester LLP  
One Post Office Square  
Boston, MA 02109

**NEW YORK**  
Sullivan & Worcester LLP  
1290 Avenue of the Americas  
New York, NY 10104

**ISRAEL**  
Zysman, Aharoni, Gayer and Sullivan & Worcester LLP  
41-45 Rothschild Blvd., Beit Zion  
Tel Aviv, 65784 Israel

SULLIVAN &  
WORCESTER

reporting rule and facilities that may be covered by the rule in the future. EPA asserts that this data would help the Agency better understand emissions from individual corporations and specific industrial sectors. EPA has specifically requested comment regarding (1) the use of numeric corporate identifiers and whether there are additional numeric identifiers the Agency should consider; (2) whether facilities should be required to identify if reported emissions are from cogeneration units; (3) how to address reporting facilities owned by foreign companies that do not have a U.S.-based parent company; and (4) the utility and burden of updating the information required by this proposal more often than annually.

The comment periods on all four proposed rules close June 11, 2010.

\* \* \*

If you have questions about EPA's proposed additional regulations, or need assistance in submitting comments, please contact any member of Sullivan & Worcester's Climate-Related Business & Technology Group.

*May 2010*