

Breaking Developments in Sustainability and Climate Change Law

Washington State Revises Greenhouse Gas Reporting Requirements to Conform with Federal Rules

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Washington Governor Christine Gregoire has signed a bill into law that revamps how businesses should report their greenhouse gas ("GHG") emissions. The bill amends an earlier law that set out an initial framework for GHG reporting. The new law will bring Washington's GHG reporting requirements more in line with federal rules, but with some important exceptions.

In 2008, the legislature passed a measure requiring the Washington Department of Ecology ("Ecology") to adopt rules for reporting GHG emissions, which Ecology did in October 2009. In addition to reporting of direct emissions, the original bill and Ecology rules also required reporting of indirect emissions (those from the purchase of electricity, heating, cooling or steam) and required owners of vehicle fleets to report their emissions. At nearly the same time Ecology issued its rules last October, the federal Environmental Protection Agency ("EPA") adopted its own Final Mandatory Greenhouse Gases Reporting Rule, which became effective January 1 of this year. The differences between EPA's rules and Washington's requirements (noted in our October 5, 2009, Hot Sheet "Washington's Greenhouse Gas Reporting Rules Differ From Federal Government's Rules: Which Will Prevail?") raised concerns by businesses and industries in Washington about the potential for duplicative or conflicting reporting requirements.

The amendments Governor Gregoire signed into law March 19 are intended to bring Washington's GHG reporting more in line with the federal requirements. Under the state's amendments, vehicle fleet owners will not have to report emissions. Instead, the suppliers of fuel will report. Also, indirect emissions are now excluded from the reporting obligation.

A few differences remain, including:

- Washington's reporting requirements kick in sooner. Those required to report must report 2009 emissions in 2010 (while the EPA requires reporting of 2010 emissions in 2011);
- Washington has a lower threshold determining who must report. Washington requires those emitting more than 10,000 metric tons or more per year to report, while EPA requires those emitting more than 25,000 metric tons per year to report; and
- Washington requires that emissions resulting from the combustion of biomass be reported.

The amendments provide the framework for Ecology to issue new rules with more specific requirements for GHG reporting. They ensure, however, that Washington's GHG reporting requirements will not stray too far from the EPA's.

View the bill and accompanying documents.

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