

IOGA Hosts Subpart W Seminar

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On February 23, 2011, IOGA hosted a comprehensive day-long informational and training seminar on the United States Environmental Protection Agency's ("USEPA") mandatory greenhouse gas ("GHG") reporting rule for the oil and gas industry, Subpart W of 40 C.F.R. Part 98, which requires covered facilities emitting over 25,000 metric tons per year of carbon dioxide equivalent ("CO₂e") to monitor, quantify and report their GHG emissions beginning in calendar year 2011. The seminar, which was held at the Days Hotel in Flatwoods, West Virginia, included detailed presentations by Lisa Campbell, Toby Hanna and David Fewell of the environmental consulting firm Environmental Resources Management ("ERM"), who are recognized experts in the arena of GHG reporting, including reporting under Subpart W.

The primary goal of the seminar was to provide a comprehensive summary of Subpart W and its requirements, from determining applicability to meeting specific compliance obligations relating to data collection, emissions quantification, recordkeeping and reporting. Following a brief outline by Katherine Crockett of Spilman Thomas & Battle, PLLC of the regulatory history and evolution of USEPA's GHG reporting program generally and Subpart W more specifically, Ms. Campbell provided a detailed overview of the scope of the rule and the industry segments regulated, including a discussion of the unique definition of "facility" for purposes of the onshore production sector. Her presentation also addressed applicable deadlines, instrument calibration requirements, recordkeeping requirements, and other important considerations in ensuring compliance with the complexities of the rule.

Because one of the most challenging aspects of Subpart W is making the initial determination of whether or not the rule applies to a particular company, several sessions of the seminar focused solely on assessing the applicability of the rule. After providing an overview of Subpart W's general 25,000 metric ton per year CO₂e applicability threshold as it applies to various segments of the oil and gas industry, Mr. Hanna briefly introduced USEPA's own applicability screening tool, which was designed to assist facilities in evaluating whether their annual GHG emissions will trigger Subpart W's requirements. After lunch, the group broke into three smaller workgroup sessions, two of which focused primarily on evaluating Subpart W's applicability using USEPA's screening tool and company-specific information supplied by the seminar participants. Notably, during these breakout sessions, significant concerns were identified regarding the accuracy of the assumptions built into—and, by extension, the ultimate reliability and usefulness of—USEPA's applicability tool, particularly with regard to estimating annual GHG emissions from conventional wells in West Virginia and other states in the Appalachian region. The remaining workgroup, which was led by Ms. Campbell, consisted of those registrants who had already confirmed that their companies were subject to Subpart W and wanted a more intensive and company-specific discussion of the rule's various data collection and reporting requirements.

After the large group reconvened following the breakout sessions, Ms. Campbell provided a very detailed look into the specific data collection needs, emissions quantification methodologies and reporting requirements set out in the rule for various categories of covered

emissions sources. Mr. Hanna then followed with a presentation addressing the availability of best available monitoring methods (“BAMM”) for the first half of 2011 for certain parameters, as well as the procedures for requesting extensions from USEPA for the use of BAMM through the end of 2011 and beyond. He then provided guidance with regard to the written GHG monitoring plan that facilities subject to the requirements of Subpart W must have in place by April 1, 2011. Finally, Mr. Fewell concluded the day with a presentation emphasizing the important implications of the rule for service providers within the industry, who may be responsible for collecting and providing to the operator certain information required to be compiled and reported pursuant to Subpart W.

IOPA extends its thanks to ERM, and especially to Ms. Campbell, Mr. Hanna and Mr. Fewell, for their considerable efforts in connection with this seminar. The E&S Committee will continue to monitor developments with Subpart W and to work with IOPA members as they navigate the intricacies of this important new rule. In the meantime, if you have specific questions you may contact Katherine Crockett at kcrockett@spilmanlaw.com or 304-340-3832.