



June 9, 2009

Environmental Protection Agency
EPA Docket Center (EPA/DC)
Mailcode 6102T
Attention Docket ID No. EPA-HQ-OAR-2008-0508
1200 Pennsylvania Avenue,
NW, Washington, DC 20460

RE: Proposed Rule on Mandatory Greenhouse Gas Reporting Docket ID No. EPA-HQ-OAR-2008-0508

Submitted via E-mail

The Business Council for Sustainable Energy, an industry coalition of energy efficiency, renewable energy and natural gas businesses and trade associations, respectfully submits the following comments on the Agency's Proposed Rule on Mandatory Greenhouse Gas Reporting.

The Council believes that a comprehensive registry that captures a significant amount of the emissions produced will help guide policymakers as they contemplate legislative approaches for reducing greenhouse gas emissions. The information recorded by a registry will inform future decisions that will mitigate climate change and strengthen America's energy security through the increased use of energy efficiency, renewable energy and natural gas.

BCSE understands that the proposed reporting rule is intended to inform future climate change policies, but not to implement any specific policy. Therefore, as a reporting rule only, the proposal contemplates a role whereby EPA will be responsible for verifying the accuracy of the data collected. The Council would like to offer our expertise to the Agency in this area and requests an opportunity to discuss the role of verification, in addition to our views regarding any other issue in the following set of comments. In addition, we respectfully refer EPA to the comments that have been submitted by our members.

As a diverse Business coalition, it is important to note that not all members take a position on, or support the entire set of recommendations below, though we fully support the goal of an accurate and reliable greenhouse gas inventory to bolster current and future greenhouse gas policy.

General Threshold for Reporting

The EPA Proposed Rule states that entities that emit 25,000 metric tons of CO₂-e per year or more are required to report their emissions. The Council strongly supports this threshold. The Council is confident that this is an acceptable threshold as it would capture the largest emitters of greenhouse gases, which, as a group, are responsible for 85 percent of total greenhouse gas emissions. A threshold at any lower amount would capture more emitting facilities, but there would be very little increase in data marginally. The Council interprets the proposed threshold as an optimal balance between the amount and quality of data collected and the cost of implementation to be borne by industries, which are subject to the reporting requirements.

Treatment of Renewable Energy Credits

EPA has proposed not to make adjustments that will take "into account the purchases of renewable energy credits."¹ The Council strongly urges EPA to recognize the importance of greenhouse gas reduction benefits associated with purchases of renewable energy credits. The Council believes that recognition of these credits is possible via the structure of the greenhouse gas emissions inventory as well as the allowance allocation regulations. For example, the Regional Greenhouse Gas Initiative established a Voluntary Renewable Energy Set-Aside where CO₂ emissions reductions are recognized in lieu of retired allowances. In this framework, entities partake in voluntary purchases of renewable energy and renewable energy credits. We hope that EPA would deem that a facility's purchase of renewable energy is synonymous with an attempt to curb emissions.

¹ Id., p. 16479.

Electricity Purchases

In response to the EPA's request to comment "on the value of collecting information on electricity purchases," the Council supports collecting data on the generation of indirect emissions from electricity purchases. The requirement to report indirect emissions as a separate category is in line with many other greenhouse gas reporting programs. This avoids double counting overall greenhouse gas emissions, while normalizing total energy usage associated with different facilities because it accounts for consumer activity to invest in onsite energy efficiency and renewable resources, as well as purchasing renewable or less carbon intensive purchased power (e.g., installation of an enlarged or new energy system that combusts more natural gas onsite, but generates both thermal and electric energy at very high efficiencies). This accurate and detailed depiction of corporations' emission trends will spur increased use of energy efficiency and renewable energy.

If EPA decides to collect information on electricity purchases, the Council urges for the adoption of option 3, which requires the reporting of indirect emissions from purchased electricity from all facilities that exceed a specific threshold. Depending on the threshold, this will increase the amount of entities that will be obligated to report their emissions. However, reporting these figures will provide a better database for understanding greenhouse emissions under market signals established under future carbon control requirements.

The Council believes that the aforementioned recommendations are in accordance with EPA's goal to have greenhouse gas reporting inform future policy deliberations.

Fugitive Gas Emissions

The Business Council agrees with EPA's proposal to exclude fugitive emissions as a reporting requirement for onshore natural gas companies. The Council agrees with EPA that there is a high level of ambiguity as to who is accountable for reporting fugitive emissions due to the lack of specificity on the definition of a natural gas facility. Financially, efforts to monitor fugitive emissions will translate to reduced capital to retrieve and provide consumers with affordable natural gas. This is predicated on that fact that facilities would have to undergo a painstaking process to inspect and monitor thousands of components that make up the facilities' transmission infrastructure. Furthermore, monitoring fugitive emissions with a direct measurement methodology will yield inaccurate and unreliable data.

For those entities subject to the Subpart W requirement the Council is concerned that the proposed Subpart W direct measurement program will be impossible to implement as written, and will result in neither accurate nor reliable fugitive emissions data. For these reasons, we urge an alternative procedure and method which provide a higher degree of data quality.

Effective Date of the Final Rule

The Proposal states that facilities must begin data collection on January 1st, 2010. While the Council understands the importance for EPA to comply with emissions collection legislation from Congress, this deadline does not provide an adequate time window for natural gas companies to adjust and calibrate the necessary equipment for data collection. It may well be logistically impossible for the nation's natural gas utilities to calibrate 70 million customer billing meters within the next six months. The short time window will complicate and inhibit natural gas facilities' efforts to provide consistent and exact data. Consequentially, this scenario increases the likelihood of unintentional errors in reporting figures; subjecting many facilities to harsh penalties. It may well be better to allow natural gas utilities to report their natural gas deliveries to customers based on the same measurement and calibration methods already used for billing purposes. Those methods are reported to DOE EIA and verified, regulated, and audited by state public utility commissions, the IRS, SEC and pursuant to financial assurance standards under Sarbanes-Oxley.

We hope that EPA is cognizant of the fact that these new requirements will be uncharted waters for some of our nation's natural gas facilities. Therefore, the Council strongly advocates for EPA to extend the effective date of the Final Rule by

one year and provide "safe harbor" protections where penalties are not immediately assessed for unintended data reporting errors. Safe harbor protections are not without precedent; the Federal Energy Regulatory Commission has granted such protections in the past.

Conclusion

Overall, the Business Council for Sustainable Energy believes that EPA's Proposed Rule for Greenhouse Gas Reporting is a positive step in the right direction. The Council also believes that these steps should be taken with deep and thoughtful consideration of the renewable energy, natural gas, and energy efficiency industries as they are key players in achieving energy security and emissions reduction. Moving forward, we are glad to provide substantive input that will aid EPA in weighing the implications of its Final Rule, and would welcome the opportunity to meet with the Agency to discuss our views.

Sincerely,



Lisa Jacobson, President
Business Council for Sustainable Energy

The Business Council for Sustainable Energy

The Council is an industry coalition that includes businesses and trade associations representing the energy efficiency, renewable energy and natural gas industries. These industries comprise a suite of currently available technology options that can strengthen domestic energy security and also reduce emissions of greenhouse gases that contribute to global climate change.

For over a decade the Council has represented the views of clean energy technology industries in the development of energy and climate change policy at state, regional, federal and international levels. Given its broad business representation, the Council is uniquely positioned to provide policy guidance on energy policy and the major design elements of a federal, economy-wide and market-based approach to climate change.

For additional information about the Council, and its members, please visit its website at www.bcse.org