



American
Petroleum
Institute



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Submitted electronically to docket No. EPA-HQ-OAR-2019-0424

Jennifer Bohman
Climate Change Division, Office of Atmospheric Programs (MC-6207A)
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Re: Revisions and Confidentiality Determinations for Data Elements under the Greenhouse Gas Reporting Rule; Docket No. EPA-HQ-OAR-2019-0424

Dear Ms. Bohman:

The American Petroleum Institute, the American Exploration & Production Council, Independent Petroleum Association of America, The Petroleum Alliance of Oklahoma, and the Offshore Operators Committee (collectively "Industry Trades") appreciate the opportunity to offer comments to the U.S. Environmental Protection Agency (EPA) on the proposed "Revisions and Confidentiality Determinations for Data Elements under the Greenhouse Gas Reporting Rule" (proposed on May 22, 2023). With this submittal, the Industry Trades seek to continue our participation in the rulemaking process as a collaborative stakeholder by providing meaningful solutions to address EPA's goals while addressing the burden of data collection (and identifying potential unintended consequences) that could result if the rulemaking is finalized as proposed.

We have participated as key collaborative stakeholders throughout the process of developing the EPA Greenhouse Gas Reporting Program (GHGRP) by contributing expertise and proposing solutions that address EPA's policy goals while reflecting the reality of the industry and its evolving day-to-day operating practices. The Industry Trades have directed our efforts toward seeking a balance between the burden of data collection and reporting, the need to protect sensitive information and ensure that reporting requirements are placed on the correct reporters, and the need for providing the highest quality data that will help inform decision makers and the public.

These comments reflect our continued interest in the evolution of the GHGRP to provide an accurate accounting of greenhouse gas (GHG) emissions from facilities across the full value chain of the oil and natural gas industry. Our comments cover concerns and recommendations in the wide range of sectors that relate to the operations of our collective members.

INDUSTRY TRADES' INTERESTS

The American Petroleum Institute (API) is the national trade association representing America's oil and natural gas industry. Our industry supports more than 11 million U.S. jobs and accounts for approximately 8 percent of U.S. GDP. API's nearly 600 members, from fully integrated oil and natural gas companies to independent companies, comprise all segments of the industry. API's members are producers, refiners, suppliers, retailers, pipeline operators and marine transporters as well as service and supply companies providing much of our nation's energy. API was formed in 1919 as a standards-setting organization and is the global leader convening subject matter experts from across the industry to establish, maintain, and distribute consensus standards for the oil and natural gas industry. API has developed more than 800 standards to enhance operational safety, environmental protection, and sustainability in the industry.

Additionally, API has a history of working with EPA to refine and improve data collection, emission estimation and emission reporting under various subparts of the GHGRP. API has worked with both EPA and the regulated industry for more than two decades in developing methodologies for estimating greenhouse gas emissions from oil and natural gas operations. API's first *Compendium of GHG Emissions Methodologies for the Oil and Natural Gas Industry* (the *Compendium*) was published in 2001. As reflected in EPA's efforts to revise the GHGRP and API's recent publication of a 4th edition of the [Compendium](#) (November 2021), our abilities to estimate and measure greenhouse gas emissions are continually evolving.

The American Exploration & Production Council (AXPC) is a national trade association representing 30 of the largest independent oil and natural gas exploration and production companies in the United States. AXPC companies are among leaders across the world in the cleanest and safest onshore production of oil and natural gas, while supporting millions of Americans in high-paying jobs and investing a wealth of resources in our communities. Dedicated to safety, science, and technological advancement, our members strive to deliver affordable, reliable energy while positively impacting the economy and the communities in which we live and operate. As part of this mission, AXPC members understand the importance of ensuring positive environmental and public-welfare outcomes and responsible stewardship of the nation's natural resources. It is important that regulatory policy enables us to support continued progress on both fronts through innovation and collaboration.

The Independent Petroleum Association of America (IPAA) represents the thousands of independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts, that will be significantly affected by the actions resulting from this regulatory proposal. Independent producers drill about 91 percent of oil and natural gas wells in the U.S., producing 83 percent of oil and 90 percent of natural gas in the U.S.

The Petroleum Alliance of Oklahoma (The Alliance) represents more than 1,400 individuals and member companies and their tens of thousands of employees in the upstream, midstream, and downstream sectors and ventures ranging from small, family-owned businesses to large, publicly traded corporations. The Alliance's members produce, transport, process and refine the bulk of Oklahoma's crude oil and natural gas and play an essential role in providing products and solutions to improve human health and welfare, power the global economy, and make modern life possible. Abundant, clean-burning natural gas has enabled the United States to become the global leader in greenhouse gas emissions reductions. The Alliance's members have and will continue to deploy technologies that result in meaningful greenhouse gas emission reductions through innovative solutions and breakthrough technologies while meeting the energy demands of today and the future.

The Offshore Operators Committee (OOC) is an offshore energy trade association that serves as a technical advocate for over 90% of the companies operating on the U.S. Outer-Continental Shelf (OCS). Founded in 1948, the OOC has evolved into the principal technical representative regarding regulation of offshore energy operations. Our members include operators and service providers working to ensure safe production of offshore energy for the workforce and the environment.

Industry Trades' Comments on EPA's "Revisions and Confidentiality Determinations for Data Elements under the Greenhouse Gas Reporting Rule"

Docket ID No. EPA-HQ-OAR-2019-0424

1. Introduction

The Industry Trades support efforts to improve accuracy and enhance consistency between regulatory programs as it relates to greenhouse gas (GHG) reporting. The comments provided herein reflect feedback from the Industry Trades on the proposed changes to the GHGRP for subparts impacting the oil and natural gas industry, with a particular focus on the newly proposed Subpart B's burdensome reporting and recordkeeping requirements as well as potential unintended consequences resulting from these requirements. The Industry Trades are respectfully submitting comments on the following subparts:

- Subpart A – General Provisions
- Subpart B – Energy Consumption
- Subpart C – General Stationary Fuel Combustion
- Subpart P – Hydrogen Production
- Subpart Y – Petroleum Refineries
- Subpart PP – Suppliers of Carbon Dioxide
- Subpart UU – Injection of Carbon Dioxide
- Subpart WW – Coke Calciners

As presented in Sections 2 and 3 below, the Industry Trades' comments are organized by proposed amendments to current subparts and proposed new subparts, respectively.

2. Comments on Proposed Amendments to 40 CFR Part 98

1. Subpart A – General Provisions

- a. The Industry Trades support EPA's proposal to update the Global Warming Potentials (GWPs) for calculating CO₂-equivalent (CO₂e) emissions of non-CO₂ gases (CH₄, N₂O, HFCs, PFCs, SF₆, and NF₃) to reflect updated estimates contained in the Intergovernmental Panel on Climate Change's (IPCC's) Fifth Assessment Report (AR5), based on a 100-year time horizon. We agree with EPA's proposal to use the 100-year GWP for methane. The proposed GWP changes to Table A-1 in Subpart A are aligned with the Inventory of U.S. Greenhouse Gas Emissions and Sinks [i.e., the U.S. EPA GHG Inventory (GHGI)] and complies with the United Nations Framework Convention on Climate Change (UNFCCC) decision to use GWP values from the IPCC AR5 in national reporting by countries by the end of 2024.

While the Industry Trades agree with the proposed revisions to the GWPs included in Subpart A, the Industry Trades request that EPA clarify in the preamble to this proposed rulemaking the impacts on the reported total CO₂e emissions due to changing the GWP (particularly for methane), without any actual change in mass emissions. With an increased focus on methane emissions from the oil and natural gas industry, it is important to inform stakeholders that future increases in CO₂e emissions due to the change in GWP are not reflective of any actual mass emission increases. Likewise, the Industry Trades recommend that the EPA acknowledge that combustion CO₂e emissions will be impacted from both the reduction in N₂O GWP, as well as the increase in CH₄ GWP.

2. Subpart C – General Stationary Fuel Combustion

The EPA’s proposed revisions include requirements to report emissions from the stationary combustion category that result from an electricity generating unit (EGU) and to report an estimated fraction of total emissions from a multi-unit group of combustion sources under 40 CFR 98.36(c) attributable to EGUs. The preamble to the supplemental proposed rule states that “some manufacturing facilities, such as petroleum refineries and pulp and paper manufacturers, operate stationary combustion sources that generate electricity. Reporting of an EGU indicator for these units would allow the EPA to assign the emissions from any electricity generating units at the facility more appropriately to the power plant sector.”¹

- a. An EGU is not specifically defined within Subpart A or Subpart C; the definition of an “electricity generation source category” EGU found in Subpart D in 98.40 includes only EGUs that are subject to monitoring and reporting requirements found in 40 CFR Part 75. While EGUs are not defined in Subpart A explicitly, a footnote to Table A-7, “Data Elements that Are Inputs to Emission Equations and for Which the Reporting Deadline is March 31, 2015” states that for sources reporting under Subpart C (cited below with **emphasis added**). The Industry Trades are seeking clarification on the definition of an EGU for this reporting element; as proposed, it is unclear what units would meet this reporting requirement. The Industry Trades support a definition that aligns with the footnote presented under Table A-7:

Required to be reported only by: (1) Stationary fuel combustion sources (e.g., individual units, aggregations of units, common pipes, or common stacks) subject to [subpart C of this part](#) that contain at least one combustion unit connected to a fuel-fired electric generator owned or operated by an entity that is subject to regulation of customer billing rates by the PUC (excluding generators connected to combustion units subject to [40 CFR part 98, subpart D](#)) and that are located at a facility for which the sum of the nameplate capacities for all such electric generators is greater than or equal to 1 megawatt electric output; and (2) stationary fuel combustion sources (e.g., individual units, aggregations of units, common pipes, or common stacks) subject to [subpart C of this part](#) that do not meet the criteria in (1) of this footnote that elect to report these data elements, as provided in [§ 98.36\(a\)](#), for reporting year 2014.

Additionally, the Industry Trades propose that the definition of an EGU specifically exclude drivers used to power equipment including but not limited to compressors and pumps.

- b. The Industry Trades also propose that the EPA provide clarification and flexibility to 98.34(e), which references 98.34(d) to determine the biogenic portion of CO₂ emissions. Since gaseous fuels can be sampled prior to combustion for biogenic content and used to determine the biogenic portion of CO₂ emissions, the Industry Trades propose the following additional language (*in red*) to provide options to use other approved sampling standards or industry standard practices:

“(e) For other units that combust combinations of biomass fuel(s) (or heterogeneous fuels that have a biomass component, e.g., tires) and fossil (or other non-biogenic) fuel(s), in any proportions, ASTM D6866-16 and ASTM D7459-08 (both incorporated by reference, see [§98.7](#)) may be used to determine the biogenic portion of the CO₂ emissions in every calendar quarter in which biomass and non-biogenic fuels are co-fired in the unit. Follow the procedures in paragraph (d) of this section. **As an alternative to ASTM D7459-08 and paragraph (d), an entity may also use a method published by a consensus-based standards organization, if such a method exists, or you**

¹ 88 Fed. Reg. at 32873.

may use industry standard practice. The method(s) used shall be documented in the GHG Monitoring Plan required under 98.3(g)(5). If the primary fuel for multiple units at the facility consists of tires, and the units are fed from a common fuel source, testing at only one of the units is sufficient.”

- c. In the proposed revisions to Subpart C, EPA should move all combustion calculations and reporting requirements from Subpart W to Subpart C in order to avoid confusion in reporting natural gas combustion emissions, as previously articulated in the Industry Trades’ comments submitted on October 6, 2022.²
- d. Additionally, site-specific CH₄ emission factors may be available for certain equipment from the equipment manufacturer or from acceptable testing methodologies. EPA should allow for the use of site-specific CH₄ emission factors as an alternative to the CH₄ emission factors in Tables C-2 or Table W-9, with the following proposed addition (below, *in red*) to 98.33(c)(1) through 98.33(c)(4). Required use of generic factors disincentivizes reporters to mitigate and reduce methane emissions. This change would also be consistent with the recently proposed updates to 40 CFR Part 98, Subpart W.

*EF = Fuel-specific default emission factor for CH₄ or N₂O, from Table C-2 of this subpart (kg CH₄ or N₂O per mmBtu), except for natural gas compressor drivers at facilities subject to subpart W of this part, which must use the applicable CH₄ emission factor from Table W-9 to subpart W of this part, **Table C-2, or site-specific emission factors.***

3. Subpart P – Hydrogen Production

In general, this subpart proposes to include all facilities that produce a hydrogen product(s) including non-merchant hydrogen production process units previously reported under Subpart Y (Petroleum Refineries) and captive plants, but excludes reporting of catalytic reforming units. EPA also proposes that the associated steam consumption for these units and their fuel usage previously reported under Subpart C (Combustion) be reported under Subpart P.

- a. The Industry Trades support the exemption to the source category in 40 CFR 98.160(b)(1)(B) clearly excluding catalytic reforming units covered under Subpart Y from reporting in Subpart P.
- b. The Industry Trades do not support amending the source category requiring reporters to report combustion from hydrogen production process units under Subpart P in lieu of Subpart C as proposed in 40 CFR 98.160(c). These units may not be metered separately from other combustion units located at an integrated facility such as a refinery with a hydrogen production unit; therefore, we recommend reporting stationary combustion emissions from hydrogen production under Subpart C. If those emissions have to be reported under Subpart P instead of Subpart C, EPA shall allow engineering estimation for fuel consumption to avoid burdensome retrofitting of fuel meters.
- c. The Industry Trades are also concerned that reporting the net quantity of steam consumed as proposed under 40 CFR 98.166(b)(9) could result in duplicative reporting based on what is proposed to be reported under Subpart B (i.e., where steam is provided by a third-party supplier). The Industry Trades respectfully request removal of this requirement from Subpart P.
- d. EPA is seeking comment as to how to determine when or how a source will trigger or cease to report under Subpart P. EPA is proposing to use hydrogen production rates as the trigger for GHG reporting, instead of direct GHG emissions. EPA believes this approach will capture hydrogen production units which use energy (rather than

² API comments to EPA’s proposed GHGRP Rule, October 6, 2022.

fossil fuel combustion). The Industry Trades believe that these types of units will frequently be part of a larger operation already subject to GHG reporting, and energy consumption will be captured under Subpart B.

The Industry Trades offer the following recommendations on the provisions to cease reporting:

- i) Hydrogen production process units which produce hydrogen but emit no direct GHG emissions should become eligible to cease reporting starting January 1 of the following year after the cessation of direct GHG emitting activities associated with the process;
- ii) If the direct GHG emissions remain below 15,000 MT CO₂e or between 15,000 and 25,000 MT CO₂e, the Industry Trades recommend that reporting would be required for 3 or 5 years respectively, aligned with the existing Part 98 reporting off-ramp provisions; or
- iii) If EPA establishes a hydrogen production threshold for reporting, then the Industry Trades recommend that falling below that production threshold should be the trigger for cessation of reporting, either starting January 1 of the following year or on a parallel structure to the 3- and 5-year off-ramp emission thresholds.

The Industry Trades recommend that if the hydrogen production unit continues to combust fuel or is part of a larger process with multiple (or comingled) combustion units, those emissions will continue to be reported under Subpart C, consistent with the Industry Trades' recommendation above. Similarly, if the process unit is part of a refinery, any non-combustion energy consumption related to the process unit will be captured under proposed Subpart B.

- e. EPA is seeking input on requiring sales information for hydrogen production. There are several reasons the Industry Trades believe this should not be required unless proposed through a separate rulemaking process.
 - i. First, it is important to note that the hydrogen market is in its very early stages, and it is unknown how hydrogen for energy consumption may evolve in the near or longer term. Codifying this in the regulation will require a full regulatory rulemaking process to address changing market conditions. As this market is evolving, it is possible this proposed new GHGRP requirement will become overly burdensome without providing useful information.
 - ii. Second, this information is considered "Confidential Business Information" (CBI) by both the seller and/or the buyer and may be restricted by confidentiality provisions in sales contracts; therefore, it should not be publicly reported.
 - iii. Finally, it is not clear how this information would be used by EPA; information necessary to determine emissions intensity is already provided in Subpart P.

If EPA disagrees with the recommendations above, the Industry Trades recommend limiting the reporting requirement to include only bulk hydrogen sales quantities, without specifying individual buyers identities and sales quantities. If reporting sales information is required, the Industry Trades recommend reporting at corporate level, rather than individual transactions, and that a cut-off threshold for reporting be established, similar to Subpart NN.

4. Subpart Y – Petroleum Refineries

Proposed revisions to Subpart Y include deletion of the reference to non-merchant hydrogen production plants and to coke calcining units as these are being addressed in Subparts P and WW, respectively. Additionally, EPA is proposing to include a requirement to report the capacity of each asphalt blowing unit.

The Industry Trades support the removal of reporting requirements for non-merchant hydrogen production plants in Subpart Y, and instead report these units under Subpart P. Likewise, the Industry Trades support the reporting of coke calcining units in the newly added Subpart WW.

EPA's rationale for requesting the capacity of each asphalt blowing unit is not clear to the Industry Trades, nor is it clear how this data would be used. It is unclear how the individual capacity data will support more accurate reporting. With the additional data collection and reporting requirements, the Industry Trades would like to better understand EPA's reasoning for requesting this information, so that we can recommend the most appropriate and effective data to meet EPA's objectives.

5. Subpart PP – Suppliers of Carbon Dioxide

As proposed, reporters would be required to report the facility identification number associated with the annual GHG reports for each Subpart RR and VV facility to which CO₂ is provided. Additionally, EPA is seeking comment on whether to expand the reporting requirements for all receivers of CO₂, not just those facilities subject to Subparts RR and VV.

- a. The Industry Trades support EPA's efforts to increase accuracy in tracking supplies of CO₂ in the economy, but request EPA to analyze whether both senders and receivers of CO₂ reporting is redundant.
- b. The Industry Trades also recommend that EPA provides additional information on how CO₂ suppliers for export could appropriately address exports in their report. For example, clarity in reporting is needed to address situations in which a company supplies CO₂ to a non-reporter that is a subsidiary of a larger company that does report.
- c. EPA is seeking comment on further expanding the list of end-use applications reported in 40 CFR 98.426(f) to better account for and track emerging CO₂ end uses. Similar to our comments under Subpart P, the market for CO₂ utilization continues to develop. As such, the Industry Trades are recommending EPA allow, in this rulemaking, flexibility in how this information is reported by allowing reporters the ability to select from a representative range of end-uses, including allowing for instances when the end-use is 'other'. The Industry Trades believe that this information could be captured in EPA's forms and updated as needed to account for innovation in this emerging market.

6. Subpart UU – Injection of Carbon Dioxide

The Industry Trades support EPA's efforts to increase clarity and reduce the potential for double counting of reported emissions. In addition, the Industry Trades support EPA's proposal to revise the proposed text in 40 CFR 98.470(c) from "are not required to report" to "shall not report."

3. Comments on Proposed New Source Categories to Part 98

1. Subpart B – Energy Consumption

This newly proposed subpart will require those reporters that are already subject to reporting under existing provisions in 40 CFR Part 98 to:

- Report the quantity of purchased electricity and thermal energy products;
- Develop a Metered Energy Monitoring Plan (MEMP), which includes identifiers for each meter (including photographs), accuracy specifications, manufacturer's certifications, and other details;
- Keep documentation of quality assurance for purchased electricity monitoring including documentation that meters are conforming with appropriate ANSI standards;
- Keep documentation of quality assurance for purchased thermal energy including copies of the most recent audit of the accuracy of each meter in the purchasing agreement, and if the audit is more than 5 years old, documentation of a request for a new audit to the energy provider (and auditing the meter every 5 years); and
- Report multiple pieces of information for every bill for every purchased energy product meter, as well as requiring submittal of representative billing statements for each purchasing agreement.

The Industry Trades believe many of the provisions within the proposed regulation are extremely burdensome for geographically disparate operations such as those found in the oil and natural gas industry and focus our comments on the unique challenges associated with the meter-level recordkeeping and segment level reporting.

In general, the Industry Trades believe there are ways to provide energy consumption information to EPA in a way that achieves EPA's policy goal while not imposing overly burdensome requirements to energy purchasers.

Specifically, the Industry Trades recommend EPA to:

- Allow energy purchasers subject to reporting under Subpart W to report energy consumption for all Subpart W activities within a single AAPG hydrocarbon basin;
- Generally, remove meter-level recordkeeping and reporting requirements for the purchaser of energy. If required, any such meter-level requirements should be provided by the electricity supplier as the owner/operator of the meters;
- Remove meter-level QA/QC requirements from the energy purchaser, and instead require energy providers to ensure meters meet required accuracy requirements as the owners of the equipment;
- Exempt Subpart B reports from the "Substantive Error" provisions found in Subpart A; and
- Remove the requirement for a separate MEMP plan, but instead allow reporters to augment existing GHG recordkeeping procedures in the Greenhouse Gas Monitoring Plan (as required in 40 CFR 98.3(g)(5), with additional requirements in subsequent subparts), to include backup documentation, procedures, QA/QC methodologies and other supporting data. This information would be available upon request by EPA.

The following commentary is provided as context to these recommendations.

The proposed recordkeeping, QA/QC and reporting requirements as proposed in this supplemental rulemaking are extremely burdensome for oil and natural gas operations and could result in disincentivizing site electrification.

For the oil and natural gas operations that cover a large geographical area consisting of numerous assets, such as onshore oil and gas production and onshore gathering and boosting where the facility encompasses assets across an entire American Association of Petroleum Geologists (AAPG) basin, the number of energy providers and the number of individual meters can be quite significant. For example, in the Permian Basin, a medium-sized upstream operator could have more than 5,000 individual well sites and tank batteries across more than 70,000 square miles and could

have hundreds if not thousands of energy meters. Some operations in Alaska and North Dakota have very limited timeframes during which weather would allow for the proposed meter-specific data collection efforts (e.g., meter photos, meter numbers, etc.). Providing documentation on a meter-by-meter basis, including billing statements, would result in an extremely burdensome reporting process, requiring uploading billing statements for hundreds, if not thousands, of meters for individual reporting entities. This is an excessive reporting requirement given that it is likely that the vast majority of meters used in the upstream oil and natural gas segment are for very small energy consuming sites, are not owned or operated by the energy purchaser, and do not serve a specific purpose beyond the reported values. Additionally, imposing these extremely burdensome recordkeeping, reporting and QA/QC requirements for energy purchasers could ultimately result in disincentivizing site electrification, which would be in contrast to the current Administration's drive toward electrification.

Separating energy consumption between reporting segments (e.g., onshore production versus gathering and boosting or gas processing) will be particularly challenging for large integrated operations. The Industry Trades recommend allowing operators subject to Subpart W reporting to report all energy consumption for all reportable Subpart W operations within a single AAPG hydrocarbon basin. Many oil and natural gas operators in the U.S. report both onshore production and gathering and boosting within the same basin and across multiple basins. The proposed data requirements under Subpart B would represent a significant and burdensome data collection effort to not only collect the meter-level data for these multi-asset facilities, but to also then separate the data between the onshore production, gathering/boosting and other GHG reporting segments. In many instances, it is not as simple as a single meter serving a single facility or reporting segment - there are meters recording data across the entire value chain with overlap between the segments - this further complicates a reporters' ability to divide that energy consumption between reporting segments. The Industry Trades request that EPA allow operators who are subject to reporting under Subpart W to report ALL consolidated energy consumption from Subpart W operations within the AAPG basin. If required to report energy by Subpart W source category (i.e., by segment), the Industry Trades request EPA to allow estimation of energy usage between Subpart W facilities, to account for the need to allocate between different facility types (e.g., onshore production, gathering and boosting, etc.) where meters cover energy use across the value chain.

Meter level identification, auditing, accuracy and QA/QC requirements should not be incumbent upon the energy purchaser; instead, these requirements should apply to the meter owner, which is the energy provider. The Industry Trades are concerned that the monitoring and QA/QC requirements proposed in 40 CFR § 98.24, and the reporting requirements in 40 CFR §98.26, will be particularly burdensome given that many of the proposed accuracy and QA/QC requirements would be the responsibility of the energy purchaser rather than the energy provider, despite the fact the energy purchaser does not own, maintain or control the meters. Placing the responsibility for the proposed data requirements on the energy purchaser is inappropriate because it is the energy providers (such as electric utilities) that own and operate the energy meters and are responsible for their accuracy. Further, it is not uncommon for energy providers to change or replace meters without informing the electricity purchaser; therefore, reporting any meter-specific data supplied by an energy purchaser could become inaccurate without the knowledge of the purchaser. Similarly, the energy purchaser does not have access to documentation that the meters conform to ANSI standards, and likely does not have the ability to request that information from the energy provider.

As proposed, the recordkeeping and reporting requirements in Subpart B require reporting detailed supplemental data not required by any other subpart in the GHGRP, and therefore should not be required here. Reporters are not required to submit this level of documentation for other subparts, but instead follow the recordkeeping

requirements codified in 40 CFR and the appropriate subparts. The Industry Trades support that same approach for Subpart B. If EPA requires meter-level reporting, the Industry Trades suggest the requirement for supplying energy meter data should reside with the energy provider, not the purchaser.

The Industry Trades provide additional comments on the following specific aspects of the supplemental proposed rule.

Meter-Level Accuracy Assurance Requirements Should Not Fall Upon the Energy Purchaser

As described above, the Industry Trades believe energy purchasers should not be held responsible for accuracy attestations on behalf of energy providers. If an electricity purchaser does not purchase, maintain or monitor meters used for billing purposes, the burden of demonstrating that the meters meet the accuracy requirements of 40 CFR § 98.24(b) should not fall upon the electricity purchaser; rather, the electricity provider should be responsible for this demonstration. The Industry Trades respectfully recommend removing the proposed requirements in 40 CFR § 98.24(a)(5) and (b) and requiring energy providers to report these certifications.

Alternatively, the Industry Trades recommend that the certification requirements found in 40 CFR §98.24(a)(5) and (b) should be provided by each electricity provider for all meters in the service area, rather than a certification on a meter-by-meter basis.

Meter-Level Recordkeeping and Reporting Requirements

As proposed, 40 CFR § 98.24(a)(2) requires reporters to collect a meter identifier and a photograph of each meter included in the MEMP. Collecting this information from hundreds or thousands of remote well pads, pipelines, and compressor stations, many of which are unmanned, will be extremely time consuming and ultimately may not be accurate. In many (if not nearly all) instances, and as indicated above, electricity purchasers do not own nor control the meters in use at a site; those meters may be replaced or changed by the energy provider without any notice to the electricity purchaser. Therefore, not only is this requirement extremely time consuming for the reporters, it would also fail to meaningfully improve the quality of reported data and the reported information could become outdated without the knowledge of the reporter.

Additionally, as proposed, 40 CFR 98.26(f) requires operators to report several pieces of data for each meter for each bill received. This requirement will be extremely burdensome while failing to increase transparency in reporting. For the oil and natural gas industry, this could require reporting hundreds, if not thousands, of individual meters. As described above, meters can be changed by the energy provider, with or without the purchaser's knowledge, throughout the course of the reporting period. Such meter changes could result in a Designated Representative (DR) certifying a report that may not be accurate as of December 31st of the reporting period³. As these meter numbers can change, requiring electricity purchasers to provide this level of detail does not increase EPA's ability to review or otherwise QA/QC the reported data, while still significantly increasing the burden of reporting on energy purchasers. Finally, the requirement to report meter location information to the county/city level can become very complex for facilities operating across a wide geographical area. The Industry Trades are respectfully recommending the removal of this reporting requirement.

³ As required in 40 CFR Part 98.4(e), each Designated Representative signs the following certification statement: "I am authorized to make this submission on behalf of the owners and operators of the facility or supplier, as applicable, for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

EPA is also proposing reporters to include a “description of the portions of the facility served by the meter.” As described above, this requirement would encompass hundreds of meters across a wide geographical area which could change with or without the purchaser’s knowledge. This requirement is also burdensome at complex facilities, such as refineries, which may purchase electricity to supplement on-site electricity generation.

The Industry Trades believe these reporting requirements to be overly burdensome and ultimately do not increase the transparency or quality of reported data.

Submitting Sample Energy Bills

As proposed in 40 CFR §98.26, reporters are required to provide EPA with copies of one direct billing statement from each provider. The Industry Trades are concerned these statements could include confidential business information (CBI) relating to purchase agreements, rates, and thermal energy usage. It is also unclear why EPA needs reporters to submit these records; EPA does not have analogous requirements in other subparts to submit example raw data in the form of bills or invoices to validate the reported data.

Additionally, for operators with a large number of sites across a large geographical area, the proposal could require multiple providers to upload hundreds of pages of billing statements. As a practical matter, users of EPA’s Electronic Greenhouse Gas Reporting Tool (EGGRT) have experienced delays in using the system when many reporters are using the system simultaneously; this seemingly simple task could result in very time intensive uploading requirements during a reporting period. Furthermore, as previously mentioned, reporters are not required to submit this level of documentation for other subparts, but instead follow the recordkeeping requirements codified in 40 CFR and the appropriate subparts. The Industry Trades support that same approach for Subpart B.

Allow Subpart W Reporters to Submit All Subpart W Segment’s Energy Consumption at a AAPG Hydrocarbon Basin Level

The Industry Trades recommend that EPA allow reporters subject to reporting under Subpart W to report energy consumption for all GHG reporting activities within a single AAPG hydrocarbon basin without direct upload of billing statements. The Subpart W operations are often interconnected, and many operators report under production, gas processing and gathering and boosting segments. In addition, electric meters may service an entire basin, a single site, or multiple sites. In order to report at a source category level as defined in Subpart W, operators would need to allocate metered electricity to a single site and then reallocate back to a segment. This would be extremely burdensome and does not meaningfully improve the quality of reported data. This gives reporters the ability to maintain relevant energy consumption information in existing Greenhouse Gas Monitoring Plans, as already required in 40 CFR 98.3(g)(5) and other relevant subparts. As currently codified, this information would be available upon request by EPA.

Missing or Incomplete Billing Information

It is not uncommon for some billing information to not be finalized for up to six- months or longer. As a result, there could be instances where complete billing information may not be available by the reporting deadline for the complete prior calendar year. The Industry Trades request that EPA allow for the use of best information available or other reasonable estimation methods to estimate partial-year energy consumption when a full calendar year of billing is unavailable.

Renewable Energy Credits and Energy Consumption

As EPA has acknowledged in the preamble to the supplemental proposal, this method of reporting energy consumption does not provide the EPA with information on renewable energy credits (RECs) that allows reporters to

net Scope 2 emissions commensurate with purchased and retired RECs. The lack of data collection and transparency on renewable energy attributes may inadvertently disincentivize the purchase of renewable energy altogether. The Industry Trades recommend that in addition to reporting the energy consumption, that EPA allows reporters to voluntarily report the amount of energy that is sourced from retired RECs or a renewable energy purchase agreement. This will provide the public and other stakeholders with a more complete picture of overall GHG emissions intensity.

Annual Data Only

EPA is proposing to collect data for every bill and every meter. For example, if the meter is billed monthly, EPA is requesting monthly data. The Industry Trades recommend that EPA remove any requirements to report data more granular than annual data. It is unclear how EPA could even use monthly purchased energy data to assess facility energy intensity. The onerous reporting requirements proposed in this new subpart indicates that EPA believes it can apply automatic checks to ensure all energy consumption bills are as expected and accounted for, the number of expected bills are reported (billing sequence), and that start dates and end dates align. However, given the wide range of energy providers, facility types, geographic locations and other factors, this assumption is incorrect. Bills are subject to billing corrections, rebills, negative usage bills to handle calibration errors, higher-than-previous usage to correct calibration errors; bills with zero usage to handle payment adjustments, overlapping start and end dates, some bills that cover two months instead of one, meters going into service, meters coming out of service, etc. It will be an enormous burden to report detailed information from every bill, EPA has not justified this effort, and EPA will likely burden reporters with error checking for very typical billing inconsistencies. For all of these reasons, EPA should collect annual data only.

Exempt Subpart B Reports from "Substantive Error" Provisions in 40 CFR Part 98 Subpart A

EPA's definition of "Substantive Error"⁴, which would trigger resubmittal of applicable GHG reports, is overly broad for this subpart as it does not have a *de minimis* threshold. There can be adjustments to energy consumption records several months following the closing period of the billing cycle. These adjustments could result in an operator having to re-submit reports previously certified even if the adjustment does not result in a significant change in the reported energy consumption. This is especially problematic for the oil and natural gas industry because of the huge number of meters potentially subject to Subpart B, the large number of meters, adjustments, etc. which may not have a substantive impact on overall energy consumption. The Industry Trades request that EPA does not subject Subpart B reports to the "Substantive Error" provisions, as defined in 40 CFR Part 98 Subpart A.

Purchased Thermal Energy Reporting

As proposed, Subpart B requires reporting metered thermal energy products as well as comprehensive auditing requirements for thermal energy meters.

- a. Consistent with the comments above, it is the Industry Trades' position that the purchaser should not be required to provide the most recent accuracy audit; instead, that should fall to the energy provider as the owner of the meter.
- b. The Industry Trades object to the proposed requirement that a purchaser must conduct the audit on a thermal meter system where purchasing agreements do not include provisions for periodic audits under 40 CFR 98.24(c). Regardless of who is responsible for an audit on a thermal meter system, the Industry Trades request that EPA

⁴ Substantive error, as defined in 40 CFR 98.3(h) means, "an error that impacts the quantity of GHG emissions reported or otherwise prevents the reported data from being validated or verified."

clarify minimum requirements to be considered a “qualified metering specialist” under 98.24(c) and any restrictions to using in-house resources (i.e., facility, energy provider, independent resources, etc.).

- c. The Industry Trades request flexibility regarding the 5-year audit requirement for purchased thermal energy meters. As proposed, 98.24(c) states that if the audit has not been performed (or is older than 5 years old), the energy purchaser is to request an audit from the energy provider. However, this audit procedure can only be completed during a facility shut-down or plant turnaround. The Industry Trades request that EPA add language that allows for this audit to take place either every 5 years or during the next planned unit shut-down.
- d. In 98.24(a)(6) and 98.26(j)(2), EPA is proposing that the reporter be responsible for developing a “clear procedure” and example of how measured data are converted to mmBTU. By putting the onus on the reporter to develop “clear procedures,” the potential for a wide range in methods and results exists, thus calling into question the value and necessity of reporting thermal energy consumption. For example, there may be differences in how reporters quantify hot and cold energy products (i.e., positive vs. negative value), based on the purpose to add or remove thermal energy. As a result, some reporters may net thermal energy while others sum the absolute values, leading to very different results. The Industry Trades recommend that EPA clarify how thermal energy measurements should be converted to mmBTU, and the Industry Trades also recommend adding a reporting field for both cold and hot energy products in the reporting form.
- e. As proposed, Subpart B provisions for thermal energy reporting only address the purchased energy, which may not represent the energy consumed on-site. The Industry Trades propose reporting this information on a facility-wide net-energy basis. Many facilities that purchase steam also return condensate, which has embodied energy that is not consumed at the purchaser’s facility. Also, some facilities that utilize electrical and/or thermal energy from a provider may pass through some of the energy purchased to a third party. In order for EPA to understand the energy consumed at the facility, both thermal energy purchased and condensate returned or energy passed through need to be understood. The Industry Trades believe that reporting this information on a net-energy use basis will provide clearer information regarding thermal energy usage.
- f. The Industry Trades also request EPA to remove, or at least provide clarification/guidance regarding, the requirement to assign the decimal fraction of purchased energy to applicable GHGRP Subparts under 98.26(l) for larger integrated facilities that utilize multiple external electrical/thermal connections with on-site energy generating units or thermal production units, as it would be overly burdensome to reasonably segregate and calculate purchased energy from site generated energy with any reasonable confidence due to the fluid nature of imported and exported energy across a large facility. Similarly, guidance of scenarios on calculating excluded quantities under 98.26(j)(4) would be valuable for the regulated community as purchasing/selling of energy may overlap based on energy loading across the larger integrated facilities and surrounding community.
- g. The definition of thermal energy that states “or any other medium used to transfer thermal energy and delivered to a facility” is overly broad and ambiguous. For example, it is unclear if purchased raw water utilized as cooling tower make-up water would be subject to the requirements, even though there may be no associated indirect emissions. The Industry Trades request clarification of the definition of thermal energy to only include thermal products where the primary reason for purchase is energy transfer and where energy was required to achieve a specific thermal property for the purchased products prior to metering. Similarly, the Industry Trades recommend incorporation of a reference temperature (e.g., outside of ambient) to define thermal energy products to avoid confusion.

- h. Likewise, EPA's proposed definition of thermal energy also includes refrigerants. Clarification should be made that this excludes non-industrial process uses such as refrigerants for comfort cooling and food storage. In most cases these are not "metered," but this exclusion would avoid confusion. The Industry Trades respectfully recommend adding the proposed language *in red* below:

"Thermal energy products means metered steam, hot water, hot oil, chilled water, refrigerant, or any other medium used to transfer thermal energy and delivered to a facility subject to this subpart. Thermal energy products do not include those used for non-industrial purposes such as comfort heating/cooling and food storage/preparation."

Additional Comments Sought by EPA:

EPA is seeking comment on existing industry standards for assessing the accuracy of electric and thermal energy monitoring systems, the frequency of audits of these systems, and the accuracy specification(s) used for thermal energy product metering systems. Consistent with the Industry Trades' position on the meter-level QA/QC and accuracy requirements, the Industry Trades' members are not generally energy providers and cannot comment on the accuracy of electrical and thermal energy monitoring systems. However, it is the Industry Trades' position that any audits of these electric and thermal energy monitoring systems be performed only during a planned facility shut-down.

EPA is also seeking comment on their understanding that monitoring and recordkeeping systems are already in place for purchased energy transactions and on EPA's assessment that the incremental reporting burden would be minimal. As reflected in the comments in this section, the Industry Trades believe that the recordkeeping and QA/QC requirements as proposed would be extremely burdensome for operations across large geographic areas, such as oil and natural gas operations.

2. Subpart WW – Coke Calciners

The proposed Subpart WW includes two proposed calculation methods to determine the CO₂ emissions from coke calciners in section 40 CFR §98.493(a). The first method uses the Tier 4 method that requires Continuous Emissions Monitoring Systems (CEMS) and requires a stack flowmeter. Stack flowmeters on coke calciners can be unreliable and can be difficult to maintain while the unit is operating. Coke calcining units that do not currently have a stack flowmeter would need to purchase, install, maintain and calibrate them, which could be a cost in excess of the Capital and O&M costs given in Table 10 for an incremental burden.

The second method is a carbon balance based on the mass and composition of the green carbon feed, petroleum coke dust and marketable coke produced. Coke calcining units that do not currently weigh all of these streams or conduct regular sampling could be required to install new scales and collect and analyze samples which may again require expenditures in excess of the incremental burden costs estimated in Table 10. There may be issues getting the carbon mass to balance, as uncertainties in weights and coke composition could lead to under or overestimation of CO₂ emissions.

There is a third method, currently used at a coke calcining unit and currently used to comply with a Washington State GHG Reporting program, that should be included as an approved method in Subpart WW section §98.493(a). In this method a performance test is conducted to measure the stack flow while the CO₂ and O₂ concentrations are measured using a CEMs system, and either the green coke input or calcined coke output is weighed. The result of the performance test is to determine the coke calciner stack flow based on either green carbon input or marketable coke output. This allows the CO₂ emissions for each hour of the year to be calculated using the weighed coke input or

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output, the CEMs CO₂ and O₂ concentrations and the stack flow factor from the performance test. The performance test is conducted periodically and the factor from the last test is used until the next stack test is performed. The stack flow factor is corrected to a set excess oxygen concentration, and the CEMs data measured throughout the year to allow the measured CO₂ concentration to be corrected to the same excess oxygen concentration.

This third method combines elements from both of the methods currently included in the proposed Subpart WW. It has an advantage that use of a stack flow factor prevents potential large periods of data substitution when the stack flowmeter is not operating. The Industry Trades request that EPA add this third method to the proposed Subpart WW. The addition of an alternate State approved method is consistent with provisions that the EPA has previously made in the Tier 4 methodology in 40 CFR 98.34(c)(1)(iii) and 40 CFR 98.36(e)(2)(vii)(A) that allow a State approved monitoring program.

Summary

The undersigned associations, representing the oil and natural gas industry, appreciate EPA's willingness to collaboratively engage with the regulated community in order to improve the quality and consistency of reported data while also streamlining the reporting process. The comments provided in this letter are intended to support this effort by providing EPA with additional context and potential unintended consequences associated with some of the proposed reporting, recordkeeping, and QA/QC requirements.

The Industry Trades are working to reduce GHG emissions across the value chain of the oil and natural gas industry, and it is critical that the EPA and the GHGRP reflect accurate reporting of GHG emissions. To that extent, it is important that EPA carefully consider these proposed revisions and new subparts and consider the points outlined by the Industry Trades while considering future proposed rulemaking.

The undersigned associations encourage EPA to carefully consider the comments and recommendations contained within this letter, and we stand ready to respond to questions and provide further clarifications, as needed, from EPA. For more information, please contact Jose Godoy at Godoyj@api.org or 202-682-8073.

Sincerely



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A handwritten signature in black ink, appearing to read 'E. Zimmerman'.

Evan Zimmerman
Executive Director
Offshore Operators Committee

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Mark DeFigueiredo, Office of Atmospheric Programs, EPA