



June 9, 2009

Environmental Protection Agency
EPA Docket Center (EPA/DC)
Attention Docket ID: EPA-HQ-OAR-2008-0508
Mailcode 6102T
1200 Pennsylvania Avenue, NW.
Washington, DC 20460

RE: Mandatory Reporting of Greenhouse Gases; Proposed Rule: EPA-HQ-OAR-2008-0508

The American Feed Industry Association (AFIA) appreciate the opportunity to submit these comments in response to the proposed rule published on April 10, 2009 by the Environmental Protection Administration (EPA) requesting comments on the mandatory reporting of greenhouse gases (GHG). AFIA members manufacture over 75 percent of the ready-to-eat feed and pet food sold annually in the United States and 75 percent of the specialty ingredients also. Membership includes manufacturers, ingredient suppliers, animal health companies, equipment manufacturers, large integrated livestock and poultry producers, and firms providing other goods and services to the animal food industry.

EPA's proposed rule would require reporting of annual emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), perfluorochemicals (PFCs), and other fluorinated gases (e.g., nitrogen trifluoride and hydrofluorinated ethers (HFES)). The proposed rule would apply to certain downstream facilities that emit GHGs (primarily, large facilities emitting 25,000 metric tons per year of CO₂ equivalent (CO₂e) GHG emissions or more) and to upstream suppliers of fossil fuels and industrial GHGs, as well as to manufacturers of vehicles and engines. Reporting would be at the facility level, except certain suppliers and vehicle and engine manufacturers would report at the corporate level.

AFIA offers the following comments to EPA regarding aspects of the agency's proposed rule as it would affect our industry and members.

EPA's Proposed Definition of Food Processing Facilities Extends Too Far.

EPA's proposed rule specifically designates food processing facilities as a facility category to which GHG emission reporting requirements would apply. EPA defines a "food processing

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facility” as one which “prepares raw ingredients for consumption by animals or humans.” EPA further states that food processing facilities may have on-site wastewater treatment and/or onsite landfills for waste disposal.

AFIA strongly believes that EPA’s definition of “food processing facility” is much too far-reaching, and incorrectly encompasses thousands of facilities that are engaged in grain handling, feed milling and grain processing operations. Such facilities have neither on-site wastewater treatment nor onsite landfills. Further, the majority of such facilities have an aggregate maximum rated heat input capacity of stationary fuel combustion units of less than 30 million British thermal units (mmBtu) per hour. As such, we believe that EPA’s arbitrary definition of a food processing facility is in direct conflict with one of the agency’s stated objectives for the proposed rule – keeping the compliance and reporting burden to a minimum and excluding small emitters. This rule would require excessive reporting, and we believe the definition should be changed.

We strongly recommend that EPA refocus its proposed definition of a “food processing facility” to those facilities whose operations fall within EPA-specified North American Industry Classification System (NAICS) categories that have GHG emission levels of known significance. If EPA desires additional criteria within its rule to ensure that facilities of interest are included within its “food processing facility” definition, we believe that onsite wastewater treatment and/or onsite landfill operations by a facility involved in food processing would serve as appropriate qualifiers to include such facilities within the “food processing facility” definition. Further, we recommend that EPA exclude the NAICS categories associated with facilities engaged in grain handling, feed milling and grain processing from its “food processing facility” definition.

Emissions Reporting Threshold Should be Raised to 100,000 Metric Tons Per Year.

EPA’s proposed rule would establish a 25,000 metric ton CO₂e per year reporting threshold. To determine CO₂e emissions, the proposed rule would require facilities to estimate or monitor emissions of CO₂, CH₄, N₂O, SF₆, HFCs, PFCs, and other fluorinated gases. In developing the proposed rule, EPA states that it considered other alternative thresholds, namely 1,000, 10,000 and 100,000 metric tons CO₂e per year.

AFIA believes there are no circumstances that would warrant EPA to consider lowering its proposed reporting threshold to the alternate levels previously evaluated by the agency to 1,000 or 10,000 metric tons CO₂e per year. As indicated by EPA’s cost-effectiveness analysis, such lower reporting thresholds would dramatically increase the number of facilities which would be affected by the reporting burden, but such levels would provide almost no increase in the total anticipated GHG emissions that would be reported.

In contrast, AFIA recommends that EPA raise the reporting threshold to 100,000 metric tons CO₂e per year, rather than the proposed 25,000 metric tons CO₂e per year. According to Table

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VIII-2 of the proposed rule, increasing the reporting threshold would reduce emission reporting by only four percent, while reducing the number of affected entities by over 50 percent. We believe this change would assist EPA in achieving its stated goals of: 1) collecting data of sufficient accuracy and quality to be used to inform future climate policy development; 2) reduce the reporting burden, when feasible; and 3) establishing a reporting program that complements existing State and regional reporting systems.

EPA’s Proposed Monitoring Methods for Emissions Are Adequate, But Continuous Emission Monitoring Systems for All Source Categories Should Not be Required.

Within the proposed rule, EPA states that it considered several options for monitoring methods that would be used to determine a facility’s GHG emissions. EPA further states that the agency selected a combination of direct measurements and facility-specific calculations as its preferred monitoring approach. This approach would require direct measurement of emissions from units at facilities that already are required to collect and report data using continuous emission monitoring systems under other federally enforceable programs, while allowing other facilities to either directly measure emissions or to use facility-specific GHG calculation methods.

AFIA supports EPA’s proposed monitoring approach. We believe that the approach and its corresponding GHG calculation methodology provides needed flexibility for facilities and will provide the agency with data of sufficient quality for use in developing future climate change policy.

AFIA does **not** support the option proposed by EPA that would require continuous emission monitoring systems for all source categories where direct measurement is feasible. We believe that such an approach would place an unreasonably high cost burden on facilities with no commensurate benefit in the accuracy of emissions reporting.

EPA Should Allow “No Significant Change” Reporting

EPA’s proposed rule would require the reporting of GHG emissions data on an ongoing, annual basis. EPA also is proposing that once a facility is subject to the reporting requirement that it would be required to continue to submit reports even if it falls below the reporting thresholds in future years.

AFIA generally supports the reporting of GHG emissions data on an annual basis. However, we also believe EPA should provide for a simplified reporting method that would allow facilities to report a “no significant change” in emission levels as measured against a designated baseline year. We propose that eligibility for this concept be based on facility operating data or process information used for the GHG emissions calculations. For example, if facility operating data or process information does not change during a subsequent year as compared to a baseline year, EPA should allow such a facility to report a “no significant change,” as an alternative to

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submitting a complete annual emission report. Such an approach would provide EPA with information necessary to monitor GHG emissions, while, at the same time, minimize the reporting burden on affected facilities. Under the recordkeeping requirements designated within EPA's Toxic Release Inventory regulations, a short form (Form A) has been utilized for several years and has proven effective in regard to reporting data and reduced the burden on the facility reporting data.

AFIA strongly opposes EPA's proposal that once a facility is subject to the reporting requirement, it would be required to continue to submit reports even if it falls below the reporting thresholds in future years. Although there may be some value in EPA being able to track trends in emissions and understand factors that influence emission levels for the purpose of policy analysis, we believe that EPA's reporting rule must include exit provisions, rather than the proposed "once in, always in" policy. There are a variety of circumstances under which "once in, always in" could result in compliance burdens far greater than the value of the information gained. Such circumstances could include facilities that idle or decommission major production lines or processes; facilities that shut down; companies that go out of business; and facilities that change ownership. In an industry that is under consolidation, reduced margins, tight cost controls, the listed circumstances are currently happening in our industry and are likely to continue in the future.

As an alternative, AFIA recommends that EPA alter its proposed rule to offer a facility that has emissions under the reporting threshold for three consecutive years the opportunity to be exempt from the reporting program – as the state of California has done within its reporting rule. We further recommend that this process be automatic and not require qualifying facilities to formally apply to EPA for an exemption.

EPA Should Decrease Record Retention Time to Three Years.

EPA's proposed rule would state that each facility required to submit an annual GHG report would also maintain specified records to substantiate its reporting. EPA proposes that facilities must retain such records in an electronic or hard copy format for a period of five years and make them available to the agency upon request. EPA states that a history of compliance could be demonstrated, and questions about past emission estimates could be resolved, if needed.

AFIA strongly believes that mandating that facilities maintain records for a period of five years is an unnecessary and an excessive burden. We disagree with EPA's assertion that records need to be maintained for this period of time so that EPA may verify compliance and resolve issues related to past emission estimates. The cost to facilities to retain records, whether in an electronic or hard copy format, is significant and burdensome. We believe there is no valid rationale for such a five-year records retention requirement.

AFIA urges EPA to reduce the record retention time period proposed with its rule from five years to three years. We believe three years is an adequate time frame for EPA to verify facility

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compliance and resolve reporting issues. Further, a three year record retention time period would correspond to the recordkeeping requirements designated within EPA's Toxic Release Inventory regulations and would reduce the records maintenance costs by at least 40% without a significant change in EPA's ability to determine essential emission information.

AFIA Supports EPA's Self-Certification Requirements for Reporting, But Not Required Third-Party Certification.

To ensure the completeness and quality of data reported to the program, EPA proposes self-certification with agency verification. Under this approach, EPA states that all reporters subject to the rule would certify that the information they submit to EPA is truthful, accurate and complete. EPA then states that the agency would review the emissions data and supporting data submitted by reporters to verify that the GHG emission reports are complete, accurate and meet the reporting requirements of the rule.

AFIA supports the self-certification process of reporting data as proposed within the rule. We agree with EPA's assertion that this approach is consistent with many other EPA regulatory programs. We also believe that this type of self-certification process has proven to be effective in verifying the completeness and quality of data reported under other EPA programs.

However, AFIA strongly opposes the EPA-considered option of requiring third-party certification of reported information. An EPA mandate to require third-party certification of reported information would result in excessive costs and an unjustified administrative burden to affected facilities. Further, we believe requiring the use of third-party certifiers could lead to inconsistent verification results and potential conflict-of-interests.

AFIA strongly believes it is EPA's responsibility and rightful role to verify the accuracy and completeness of reported data, and to do so in an impartial and consistent manner. Additionally, within EPA's Toxic Release Inventory regulations program, self-certification has proven to be a successful, as companies self-certify to EPA that all the information they submit is truthful, accurate and complete.

A Reporting Exemption Threshold Should be Established But Not on Fossil Fuel Only

For facilities not included within a designated source category, EPA proposes to exclude those facilities with an aggregate maximum rated heat input capacity of stationary fuel combustion units of less than 30 mmBtu per hour. EPA states that this proposed exemption will minimize the need for such facilities to calculate their emission levels to determine whether they are required to report under the proposed regulation. EPA further states that the 30 mmBtu per hour exemption threshold was determined through agency calculations that demonstrated a facility with stationary combustion units that have a maximum rated heat input capacity of less than 30

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mmBtu per hour and operating 8,760 hours per year with all types of fossil fuel would not exceed emissions of 25,000 metric tons CO₂e per year.

We support the concept of establishing a reporting exemption threshold based upon the aggregate maximum rated heat input capacity of stationary fuel combustion units located at the facility. However, we do not believe it is appropriate for EPA to establish this threshold using the fossil fuel that produces the worst-case scenario for facility emissions. Instead, we believe that such a reporting exemption threshold should be based on the specific type(s) of fuel(s) combusted at the facility.

The vast majority of facilities involved in grain handling, feed milling, or grain processing combust natural gas, propane or distillate fuel oil within stationary combustion units. Based upon EPA-provided emission data and assuming 8,760 hours of combustion per year, the following table indicates the aggregate maximum rated heat input capacity of stationary combustion units that would need to be present at a facility in order to reach the proposed 25,000 metric tons CO₂e reporting requirement by common fuel type.

Type of Fuel	Required Aggregate Maximum Rated Heat Input Capacity of Stationary Combustion Units to Reach 25,000 Metric Tons CO ₂ e Emissions per Year
Natural Gas	53.78 mmBtu per hour
Propane	45.25 mmBtu per hour
Distillate Fuel Oil	38.91 mmBtu per hour

Further, EPA's assumption used to establish its proposed heat input exemption threshold that stationary combustion units at facilities will operate at maximum rated input capacity for 24 hours per day each day of the year is incorrect. Few, if any, facilities involved in grain handling, feed milling and grain processing will operate at this level. Instead, the operation level of many stationary combustion units at such facilities is seasonal in nature, with the level of fuel combusted significantly varying though out the year dependent on a number of variables, including ambient temperature, wind velocity and actual time the facility is operated.

An example would be a large aquafeed customer using the same assumptions would produce 30,355 TPY CO₂e, when using an hourly BTU firing rate to estimate annual emissions. There are plants operating at under 60% capacity due to seasonality of aquatic species production. Warmwater fish, such as catfish, have lowered intake of feed in cold seasons, as the species is poikilothermic. Taking the revised assumption into account this plant would yield an estimated emission rate of 20,237 TPY CO₂e. In this case, the processor would be required to report under the proposed guideline, but would not report if actual production schedule was taken into account, as the levels of CO₂e would be lower than EPA's suggested limit of 25,000.

A more accurate assessment would be to base estimated emission relative to *actual* fuel volume provided by a facility's utility provider. Existing plants can show natural gas, oil, or propane amounts purchased in recent years as a baseline to determine whether the plant will need to report in the future.

AFIA recommends EPA revise its proposed aggregate maximum rated heat input capacities of stationary fuel combustion units for which the agency will exclude facilities from the need to calculate their emission levels to determine whether they are required to report under the proposed regulation. We believe that EPA's approach in establishing appropriate aggregate maximum rated heat input capacity thresholds should be flexible and reflect actual facility operations. Such an approach should consider the actual fossil fuel(s) combusted at the facility and the actual hours of facility operation.

Conclusion

AFIA reiterates its belief that EPA should actively seek to limit the regulatory burden imposed on small emitters by its proposed, mandatory GHG reporting rule. We believe the revisions to the proposed rule recommended in these comments will assist EPA in balancing the rule's coverage to achieve a desirable level of emissions reported while limiting its effect on small emitters.

AFIA appreciates this opportunity to provide its views on this proposed rule, and EPA's consideration of our recommendations.

Sincerely,



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