



June 9, 2009

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

Re: Comments of the Natural Gas Supply Association Regarding the Environmental Protection Agency's Proposed Mandatory Reporting Rule for Greenhouse Gas Emissions

Dear Docket Clerk:

The Natural Gas Supply Association ("NGSA") appreciates the opportunity to provide initial comments on the Environmental Protection Agency's proposed mandatory greenhouse gas reporting rule contained in the April 10, 2009 notice of proposed rulemaking (74 FR 16448 – 16731) ("Proposed Rule").¹ Framing a comprehensive reporting rule is a complex undertaking that will require equally comprehensive input from a variety of interested parties, including regulated entities, state and federal regulators and scientists. The Omnibus Appropriations Bill of 2007 required EPA to propose and finalize a rule requiring mandatory reporting of greenhouse gases ("GHG") emissions above appropriate thresholds in all sectors by June 2009.²

NGSA represents the major integrated and independent energy companies that produce and market natural gas. Established in 1965, NGSA encourages the use of natural gas within a balanced national energy policy, and promotes the benefits of competitive markets to ensure reliable and efficient transportation and delivery of natural gas and to increase the supply of natural gas to U.S. customers. NGSA members are affected by the Proposed Rule.

The NGSA asks the EPA to consider the following points as part of the final rule:

1. Select the Later Proposed Implementation Date of Final Rule and Include Protections for Good-faith Compliance Reporting;
2. Exclude Emissions from Onshore Natural Gas Production Facilities as Market Forces Drive to Improved Efficiencies; and
3. Set Threshold Level so That Implementation Balances Cost with Data Collected and Incentivizes Emissions Reductions.

¹ The Proposed Rule addresses greenhouse gas stationary source requirements in Title 40, Part 98 of the Code of Federal Regulations (40 CFR 98).

² H.R. 2764

1. Select the Later Proposed Implementation Date of Final Rule and Include “Safe Harbor” Protections for Good-faith Compliance Reporting.

NGSA understands EPA’s need to respond to Congressional appropriations legislation regarding emissions collection; however the implementation date for the final rule should not be rushed, and should consider the practical realities of the significant reporting obligation created by the Proposed Rule.

The proposed implementation date places respondents and consequently shareholders at unacceptable compliance risk. The schedule for implementation for reporting 2010 data in 2011 is overly ambitious.³ Putting in place the required collection devices and systems, business processes and procedures, and training personnel to accurately gather the necessary data for the Proposed Rule is extensive, will take months to complete and cannot be achieved by January 1, 2010. To ensure accurate data collection and a sound framework for climate initiatives, NGSA strongly urges EPA to select the second of its two proposed alternatives for an effective date which requires operators to report 2011 emissions in 2012.⁴

To further ease the compliance burden, the annual report should be filed in June, not March. A second-quarter reporting deadline is more consistent with existing state greenhouse gas reporting programs. Most other environmental reports are also due on March 31 and requiring preparation and filing of this significant report contemporaneously with those reports is overly burdensome. NGSA believes the later effective date of the Proposed Rule will allow adequate time to evaluate and analyze the final regulatory requirements, install necessary facilities, implement data collection procedures, properly train personnel and implement document collection and retention procedures to meet EPA’s requirements. However, if EPA does not select the later implementation date, NGSA urges EPA to adopt the proposed alternative that reduces the collection burden for the first year, by allowing companies to report emissions using the “best available information.”

In addition, NGSA recommends coupling a ‘safe harbor’ protection for good-faith reporting with any effective date chosen. A ‘safe harbor’ provision allows those who are required to meet the terms of the Proposed Rule, to comply as EPA intends without being penalized if unintended errors in data reporting occur. In the past, the Federal Energy Regulatory Commission (“FERC”) has worked with NGSA to include similar provisions in its reporting regulations. Because the Proposed Rule is complex and lengthy, unintended reporting errors should not be penalized without granting the reporting party an opportunity to make the necessary corrections and adjustments. Safe harbor protections for good-faith reporting are needed not only while the industry adopts compliance protocols for this new reporting obligation, but also in the longer term to support the policy of a complete inventory, which will serve as the basis for future policy decisions. The industry should be allowed to work through the issues raised by this economy wide, highly technical rule without fear of an unintended violation and resulting penalty.

³ 40 CFR 98, Subpart A, Section 98.3

⁴ 74 FR 16471

2. Exclude Emissions from Onshore Natural Gas Production Facilities as Market Forces Drive to Improved Efficiencies

NGSA supports EPA's proposal to exclude onshore natural gas production facilities from the reporting requirement.⁵ The EPA recognizes that even excluding these facilities, the rule will capture 85-90% of greenhouse gases emissions.⁶ There are roughly 450,000 onshore natural gas production facilities ("wellheads") in the United States⁷. The capital costs and administrative burden of having to comply with the Proposed Rule for each of these wellheads, in addition to the costs which will already be borne by the industry for covered facilities, is considerable, both economically and pragmatically. Expanding the Proposed Rule to include wellheads would expose marginal wells to potential shutdown, and further divert capital that could be directed to development of added energy resources. Less capital directed to production facilities could potentially reduce supply of and raise the cost of natural gas, which ultimately affects consumers.

Expanding the Proposed Rule is unnecessary. The natural gas industry has significantly reduced emission in the last 20 years. This is well documented through the EPA's Natural Gas STAR program. The Natural Gas STAR Program is a flexible, voluntary partnership that encourages oil and natural gas companies—both domestically and abroad—to adopt cost-effective technologies and practices that improve operational efficiency and reduce emissions of methane, a clean energy source. Since 1990, the natural gas industry has eliminated nearly 677 billion cubic feet ("Bcf") of domestic methane emissions, 416 Bcf of which was from production facilities, through the implementation of more than 120 cost-effective technologies and practices⁸. NGSA believes that the best and most cost-effective way to reduce emissions from onshore natural gas production is not to impose costly and technically questionable new regulations, but to continue to rely on market driven programs to improve efficiencies. The success of such an approach is proven, well-documented and cost-effective. We support EPA's proposal to exclude on-shore wellheads from the Proposed Rule.

3. Set Threshold Level So That Implementation Balances Cost with Data Collected and Incentivizes Emissions Reductions

NGSA supports EPA's proposed threshold of 25,000 tons of carbon dioxide equivalent (CO₂e) and believes that it captures a majority of GHG emissions released in the U.S.⁹ The threshold strikes an appropriate balance between implementation costs and the production of useful information for the Agency. Lowering the threshold level will disproportionately increase the number of covered facilities without materially improving the level of data collected. The proposed threshold is set as such that it correctly excludes facilities that have a negligible impact on total GHG emissions.

⁵ 40 CFR 98, Subpart W, Section 98.230

⁶ 74 FR 16467

⁷ EIA, http://tonto.eia.doe.gov/dnav/ng/ng_prod_wells_s1_a.htm

⁸ EPA's Natural Gas STAR program, <http://www.epa.gov/gasstar/accomplishments/index.html#four>

⁹ 40 CFR 98, Subpart A, Section 98.2;

By setting the emissions threshold at 25,000 tons of CO₂e, approximately 13,000 total facilities are covered, representing 85-90% of the total national GHG emissions. However, if the threshold is lowered to 10,000 tons of CO₂e, the total number of facilities level almost doubles while the GHG emission data increases less than one percent.¹⁰ Therefore, the 25,000 tons of CO₂e threshold is appropriate and meets EPA's intended goal of gathering emissions data from large sources in the United States.

NGSA recommends that the EPA change the "Once in, always in" reporting rule. Under EPA's proposal, once a facility triggers the reporting threshold, it must report for the life of the facility, even if it successfully reduces GHG emissions below the threshold in a later year. NGSA urges EPA to allow facilities that are below the reporting threshold continuously for three consecutive years to be no longer subject to reporting requirements.

Thank you for the opportunity to provide these comments. In addition to our comments, NGSA endorses and further references the comments submitted on behalf of the Natural Gas Council as well as the American Petroleum Institute, dated June 9, 2009. In closing, we appreciate the EPA's efforts to consider comments from parties most affected by the Proposed Rule. As EPA weighs input and decides revisions, NGSA hopes you will give our suggestions serious consideration so that balanced due process benefits are provided to all potentially affected parties.

Sincerely,



R. Skip Horvath
Natural Gas Supply Association

Cc: Dina Kruger, USEPA, Office of Atmospheric Programs, Climate Change Division
Lisa Hanle, USEPA, Office of Atmospheric Programs, Climate Change Division
Roger Fernandez, USEPA, Office of Atmospheric Programs, Climate Change Division
Carole Cook, USEPA, Office of Atmospheric Programs, Climate Change Division

¹⁰ 74 FR 16467