



June 10, 2010

U.S. Environmental Protection Agency
EPA Docket Center (EPA/DC)
Attention: Docket ID No. EPA-HQ-OAR-2009-0923
Mailcode 2822T
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Comments of the Natural Gas Supply Association (NGSA) Regarding the Proposed Rule, Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas Systems, dated April 12, 2010 (75 Fed. Reg. 18,608), Docket ID No. EPA-HQ-OAR-2009-0923.

Dear Administrator Jackson:

The Natural Gas Supply Association (NGSA) appreciates the opportunity to submit the following comments on the Environmental Protection Agency's (EPA) proposal to add a new Subpart W to the Mandatory Reporting Rule,¹ requiring annual reporting of fugitive and vented greenhouse gas (GHG) emissions from petroleum and natural gas systems.² NGSA is a leading national association of natural gas producers and marketers, whose members produce approximately one-third of the U.S. natural gas supply.³

NGSA believes that the proposed Subpart W will cause formidable financial and administrative burdens without contributing appreciably to the coverage or accuracy of emissions monitoring under the Mandatory Reporting Rule. In these comments, we discuss several ways in which the proposed Subpart W should be modified to better reflect the realities of monitoring GHG emissions in the natural gas production sector. We discuss:

1. Why the inclusion of onshore natural gas production in the Mandatory Reporting Rule is unnecessary;

¹ 40 C.F.R. § 98.

² Mandatory Reporting Rule: Petroleum and Natural Gas Systems, 75 Fed. Reg. 18,608 (Proposed Apr. 12, 2010).

³ 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.

2. How basin-level aggregation will result in overly burdensome reporting requirements and recommended solutions;
3. An alternative approach to basin-level reporting;
4. The need for a more reasonable timetable to ensure proper compliance;
5. The need for clarification of some of Subpart W's proposed definitions; and
6. The need to address reporting responsibility associated with diverse ownership and operating arrangements for onshore production wells and recommended safeguards.

Given that our sector comprises approximately 475,000 individual facilities⁴ with a wide diversity of configurations and operating arrangements, and plays a vital role in supplying the country with an abundant and low-carbon energy source,⁵ we respectfully request that EPA carefully consider our recommendations to ensure that the proposed rule produces useful data at a reasonable cost.

1. The Inclusion of Onshore Natural Gas Production in the Mandatory Reporting Rule is Unnecessary to Achieve EPA's Goals

Including the onshore natural gas production sector in the Mandatory Reporting Rule will not contribute significantly to the coverage of EPA's reporting requirements and will not further the industry's considerable efforts to minimize GHG emissions. As EPA itself determined, the existing Mandatory Reporting Rule already captures approximately 85% of U.S. GHG emissions.⁶ Even under EPA's revised emission figures (which NGSAs has not had an opportunity to independently evaluate), onshore petroleum and natural gas production as a whole only account for approximately 3% of U.S. emissions.⁷ On balance, NGSAs questions whether this level of added contribution of our sector to total U.S. GHG emissions justifies the considerable cost and logistical issues associated with implementing the proposed Subpart W – costs which, as discussed in more detail below, EPA may have significantly underestimated.

The conclusion that the proposed Subpart W is unnecessary for our sector is only bolstered by the demonstrated effectiveness of a number of existing voluntary programs undertaken by the natural gas industry to monitor and – more important – reduce GHG emissions from natural gas facilities. NGSAs members have participated in these programs not simply for environmental reasons but also because, in the case of methane, fugitive emissions represent losses of a valuable product. Natural gas producers have

⁴ See Energy Information Administration, "Number of Producing Gas Wells," http://www.eia.doe.gov/dnav/ng/ng_prod_wells_s1_a.htm.

⁵ The combustion of natural gas yields approximately one-half of the GHG emissions that result from combustion of coal, per unit of useful energy produced. Recently, the Energy Information Administration (EIA) determined that fuel-switching from coal to natural gas was a key driver of dramatic reductions in U.S. GHG emissions over the last few years. See Energy Information Administration, *U.S. Carbon Dioxide Emissions in 2009: A Retrospective Review* at 7 (2010).

⁶ 74 Fed. Reg. 56,264.

⁷ See 75 Fed. Reg. 18,613 (estimating about 225 million metric tons CO₂-e per year in fugitive, vented, and incremental combustion emissions from onshore petroleum and natural gas production).

always had a powerful economic incentive to take cost-effective measures to detect and prevent releases of methane where possible. This incentive explains why the natural gas industry has consistently participated in voluntary initiatives such as EPA’s Natural Gas STAR program, which has eliminated nearly 822 billion cubic feet (Bcf) of domestic methane emissions since 1993. Of this total, over half – 416 Bcf – resulted from activities in the onshore petroleum and natural gas production sector. In 2008 alone, Natural Gas STAR partners reduced methane emissions by 114 Bcf, with the vast majority of that total (78%) attributable to the production sector.

In addition to Natural Gas STAR, NGSAs members have voluntarily taken part in reporting efforts such as the Carbon Disclosure Project, the Climate Registry, American Carbon Registry, and the API Climate Greenhouse Gas Estimation and Reporting program. These efforts have greatly contributed to public understanding of the nature and magnitude of GHG emissions from our facilities, at very reasonable cost.

2. The Overly Burdensome Reporting Requirements of Basin-Level Aggregation Can Be Addressed Through a Combination of Simple Screening Tools and Streamlined Monitoring Methodologies

If EPA nonetheless decides to finalize mandatory GHG reporting requirements for the onshore natural gas production sector, NGSAs urges EPA to take steps to make the proposed Subpart W more workable and cost-effective. A key problem NGSAs has identified is that the proposed Subpart W regards a reporting company’s aggregate basin-level production as the reporting “facility.”⁸ The discussion in the Technical Support Document (TSD) accompanying the proposed rule suggests that EPA views basin-level reporting as a measure that will “substantially increase reporting burden” but substantially reduce the complexity of reporting requirements.⁹

NGSAs believes this reasoning is mistaken. Basin-level aggregation will not streamline or reduce the complexity of reporting for our sector, even though it may reduce the number of reports submitted to EPA relative to a field-level or wellhead-level approach. The TSD indicates that EPA views basin-level reporting as a simplifying approach that will only cover 4% of “facilities” (meaning basins) nationwide.¹⁰ However, under the basin-level approach, entities that own natural gas production facilities will *still* have to measure GHG emissions at every individual wellhead within a basin to determine whether the aggregate 25,000 tons CO₂-e threshold for the basin is met, and to prepare emission reports for basins exceeding the threshold.

Moreover, although NGSAs appreciates that EPA has attempted to focus reporting requirements on the wellhead components that are the most significant emitters,¹¹ the proposed Subpart W still includes highly labor-intensive and equipment-intensive monitoring methods for our sector – requiring population counts of thousands of

⁸ See proposed 40 C.F.R. § 98.238.

⁹ TSD, at 25.

¹⁰ TSD, at 30.

¹¹ 75 Fed. Reg. at 18,614.

individual components (many of which are trivial sources of emissions) at hundreds of thousands of wellheads and thousands of miles of gathering pipelines, as well as direct measurement of equipment such as rod packing vents, unconventional well completions and workovers, and wet seal degassing vents. Certain units, such as acid gas removal (AGR) stacks, are also not equipped with the metering or monitoring equipment needed to fully comply with the proposed Subpart W; numerous units will, in many cases, need to be taken offline to install the required equipment. Considering that our sector contains approximately 475,000 of wellheads alone, these measures will require massive investments in data collection on facilities (and components within facilities) that are often negligible sources of GHG emissions.

Under any reasonable set of assumptions, the cost of complying with the above requirements will far exceed EPA's estimate of only \$27.7 million for the entire onshore petroleum and natural gas production sector. Indeed, the American Petroleum Institute's (API) review of the rule indicated that the costs of the proposed Subpart W to the onshore petroleum and natural gas production sector alone could reach \$1.7 billion, or \$8.44 per ton CO₂-e of GHG emissions. If correct, this estimate would cause the cost of the proposed Subpart W to approach the projected near-term cost of a mandatory cap-and-trade program¹² – even though the sole purpose of the Mandatory Reporting Rule is to collect policy-relevant information on GHG emissions, not impose emission controls. In addition, this figure would far exceed EPA's estimated cost-per-ton for any other sector included in the Mandatory Reporting Rule.¹³

NGSA believes that EPA's proposed basin-level approach fails to achieve an appropriate balance between the need for GHG data with the practical and economic burdens associated with the reporting burden imposed by the proposed Subpart W. There are two ways for EPA to address these burdens:

- The agency can reduce the total number of wellheads and related facilities that are subject to reporting (by increasing applicable emission thresholds, redefining the unit of reporting, or a combination of these two approaches), or
- The agency can streamline the number of sources that must be monitored at individual facilities and emphasize engineering estimation approaches over direct measurement.

NGSA believes EPA should pursue both avenues. First, EPA should omit basin-level reporting from the final rule and streamline reporting burdens through the use of simple screening tools (as explained in more detail below). Second, EPA must do more to eliminate (or at least minimize) the use of direct measurement in the onshore petroleum and natural gas production sector. It is simply infeasible to carry out the detailed and labor-intensive reporting that the proposed Subpart W would demand at a sector with as

¹² EPA's economic analysis of the Waxman-Markey bill (H.R. 2454), for example, projected an allowance price of \$13 per ton CO₂-e in 2012. EPA, *Supplemental EPA Analysis of the American Clean Energy and Security Act of 2009* at 3 (Jan. 29, 2010), available at: http://www.epa.gov/climatechange/economics/pdfs/HR2454_SupplementalAnalysis.pdf.

¹³ See Mandatory Reporting of Greenhouse Gases, 74 Fed. Reg. 56,260, 56,363 (Oct. 30, 2009).

many individual facilities and components as ours. At a minimum, EPA should specifically consider:

- Devising a simple “screening” threshold that would allow wellheads that are of small size or throughput to be excluded from GHG emissions reporting;¹⁴
- Restricting component population counts to components that are above a minimum size threshold;
- Providing simplified reporting methods – based on engineering estimation or emission factors, not direct measurement – for small components or units, such as small compressors and combustion devices, or low-throughput dehydrators and storage tanks;
- Permitting phased implementation of the reporting requirements (as discussed below), to allow entities in the production sector sufficient time to carry out applicability determinations, conduct component counts, and install all necessary meters and other equipment; and
- Creating a separate reporting category for gathering pipeline compression stations, and excluding gathering pipeline segments from reporting.

3. EPA Should Replace Basin-Level Reporting With Optional Aggregation of Wellheads Into Reporter-Designated Production Fields

EPA’s proposal to classify all wells within a basin as a single “onshore petroleum and natural gas production facility”¹⁵ runs contrary to past practice and does not result in coherent or useful groupings of sources. As EPA is no doubt aware, basins are massive geographic designations that are highly heterogeneous with respect to geology, fluid composition, and equipment and operational practices. A single basin usually contains wellheads with a wide variety of production characteristics that influence GHG emissions. Thus, emissions data reported at the level of a basin is unlikely to be helpful in understanding GHG emission trends in the onshore petroleum and natural gas production sector, nor is it likely to provide a useful guide to policymaking.

In addition, Clean Air Act regulations have always treated individual equipment sites as the appropriate unit of compliance for purposes of New Source Performance Standards (NSPS),¹⁶ National Emissions Standards for Hazardous Air Pollutants

¹⁴ As a point of departure, EPA could consider the suggestion of the American Exploration and Production Council (AXPC) (included in comments on the proposed rule) that the proposed Subpart W not require reporting from (1) natural gas production sites with only wellhead fugitive emissions and produced water storage tank emissions, (2) any natural gas production site with less than 3 MMSCFD of production and less than 1 BOPD condensate production, and (3) oil stripper wells producing less than 10 BOPD.

¹⁵ Proposed 40 C.F.R. § 98.238.

¹⁶ See 40 C.F.R. § 60.3 (defining “stationary source” as “any building, structure, facility, or installation which emits or may emit any air pollutant”). At 40 C.F.R. § 52.21(b)(6), a “building, structure, facility, or installation” is defined as “all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control)”

(NESHAPS),¹⁷ and New Source Review (NSR).¹⁸ Section 112 of the Clean Air Act also expressly prohibits the aggregation of multiple oil and gas wells for purposes of applying NESHAPS.¹⁹ Contrary to discussion in the TSD indicating that the definition of a “facility” is difficult to apply to onshore petroleum and natural gas production,²⁰ these Clean Air Act regulations are well-understood and have proven workable over a course of many years. The basin-level approach departs dramatically from this established practice and could lead to confusion, inconsistency, and unintentional misreporting in our sector.

If EPA seeks to reduce the number of emission reports submitted for the petroleum and natural gas production sector, NGSA supports the alternative to basin-level reporting proposed by the American Petroleum Institute. Under this proposal, owners of wellheads would have the option of aggregating wellheads into coherent producing fields based on common geologic and operational characteristics. This approach would achieve the goal of rationalizing the number of reports submitted to EPA without disturbing the conventional definition of “facilities” used in the Clean Air Act. In addition, this approach would yield more useful data that could eventually lead to a better understanding of the influence of field characteristics on GHG emission profiles.

4. EPA Must Provide More Time for the Onshore Petroleum and Natural Gas Production Sector to Comply

Assuming EPA finalizes Subpart W in September of this year (as the agency has previously indicated it would do), NGSA members will have only three months of lead time to put in place the monitoring equipment, data collection procedures, and personnel needed to comply with the new GHG reporting requirements. This is simply infeasible due to the number of facilities in our sector and the fact that most of the equipment in the field lacks the metering equipment and detailed component inventories called for in the proposed Subpart W. In addition, most companies in the onshore petroleum and natural gas sector are still occupied with implementing the requirements in the existing Mandatory Reporting Rule, and will not be able to focus on complying with new Subpart W requirements until after the first year of data collection under the Mandatory Reporting Rule is complete.

Thus, NGSA strongly supports the American Petroleum Institute’s proposal that the proposed Subpart W be implemented in phases over several years, allowing for an orderly transition to the new requirements. For example, in the first year of reporting under Subpart W, EPA could require that reporting entities provide data on the 25% of wellheads with the greatest production throughput, with reporting expanded to the remaining wellheads over a period of two to three years. During this phase-in period,

¹⁷ See 40 C.F.R. § 63.761 (NESHAP for Oil and Natural Gas Production Facilities, defining “facility” as “oil and natural gas production and processing equipment that is located within the boundaries of an individual surface site as defined in this section.”).

¹⁸ See 40 C.F.R. § 52.01(a) (defining “stationary source”).

¹⁹ 42 U.S.C. § 7412(n)(4)(A).

²⁰ TSD at 17, 23-24.

EPA should allow reporting entities to rely on “best available monitoring methods” to estimate emissions for equipment that has not yet been phased into full reporting under Subpart W. This approach would allow EPA to begin to gather data from onshore petroleum and natural gas production in 2011, while providing a reasonable timetable for industry to ensure proper compliance with the new Subpart W.

5. EPA Must Clarify the Proposed Definitions of Industry Segments Subject to Subpart W

Like the American Petroleum Institute and other industry commenters in this docket, NGSAs believe that the definitions of individual segments of the oil and gas industry in the proposed 40 C.F.R. § 98.230(a) are confusing, inconsistent with industry practice, and would lead to double-counting of emissions from multipurpose or co-located facilities.

For example, it is not clear from the segment definitions whether a given gathering pipeline should be considered “part of” an onshore petroleum and natural gas production facility or a natural gas processing facility, because the definitions do not specify a physical boundary for either production or processing. Similarly, other units (such as gas dehydrators) could be considered part of more than one facility under the definitions proposed by EPA. Industry practice – and existing EPA regulations²¹ – differ substantially from the proposed Subpart W by clearly demarcating individual types of facilities with reference to a physical boundary, and by excluding gathering pipelines outside the facility “fence-line.” Because the definitions in the proposed 40 C.F.R. § 98.230(a) are ambiguous and difficult to apply, they would lead to inconsistent and potentially overlapping reports. These uncertainties also create a risk that NGSAs members could be held liable for misreporting, even when making a good faith effort to properly apply the definitions in the rule.

In addition, the proposed definitions provide no guidance as to how facilities that serve or house multiple functions should be categorized. In the natural gas industry, it is common for a single site to include multiple facilities that perform different functions (production, processing, compression, etc.). Under the proposed Subpart W, it is not clear to which industry segment such facilities would correspond. Without further specifications on the treatment of such facilities, the proposed Subpart W could lead to inconsistent reports or inadvertent misreporting of emissions.

To resolve these issues, NGSAs recommend that EPA:

- Draw on existing regulatory definitions of facilities where possible (such as the descriptions provided in Subpart HH of EPA’s NESHAP regulations for natural gas processing facilities, 40 C.F.R. § 63.760). These definitions are well-understood by industry, and have proved workable in other regulatory contexts;

²¹ See notes 16 through 18, above.

- Create a separate facility category for gathering pipelines, consistent with the existing Department of Transportation / Pipeline and Hazardous Materials Safety Administration reporting;
- Treat gathering/boosting compressor stations as individual facilities, consistent with current definition and treatment of facilities under the CAA; and
- Allow reporting entities to use primary North American Industrial Classification System (NAICS) codes, and other appropriate and relevant data, to justify the classification of multi-purpose or co-located facilities.

6. Because Reporting Responsibility for Onshore Natural Gas Production Can Be Complicated, EPA Should Provide Safeguards

The proposed Subpart W overlooks significant complications associated with determining reporting responsibility for onshore production wells. A single well can be owned by one entity, be operated by another entity, lease portable equipment from a third entity, and have that portable equipment operated by yet another entity. In these situations, the entities that directly operate certain equipment are in the best position to gather emissions data for that equipment, whereas other entities working at the same well site have limited ability to verify that data. Yet the proposed rule places the burden of reporting entirely on the owner of the well or the holder of the operating permit.²² This requirement could place onshore natural gas production entities in the impossible situation of being held to account for errors or omissions committed by third parties. NGSA respectfully requests that EPA address this concern by taking the following steps:

a. Allow Reporting Entities to Reasonably Rely on Operators. NGSA is concerned that in cases where a reporting entity must collect emissions data from other entities operating equipment at a particular well, the reporting entity could be held liable for non-obvious errors or omissions committed by those other entities. The Reporting Rule should allow reporters to reasonably rely on data supplied by operating companies associated with the production well. This “safe harbor” would not, of course, apply where reliance is unreasonable, such as when the reporting entity has reason to know that data is erroneous or false.

b. Disallow “Vicarious Liability” for Errors Committed by Reporting Entity. NGSA is also concerned that entities in the onshore natural gas production sector that provide emissions data to reporting entities may then be held liable for subsequent errors or omissions committed by that reporting entity. EPA should clarify that an entity that provides properly collected emissions data to a reporting entity will not be held liable if that reporting entity commits an error or omission in reporting that data to EPA.

c. Extend annual report submission deadline for onshore production facilities. NGSA is concerned that the annual deadline of March 31 for submission of emission

²² Proposed Subpart W, 75 Fed. Reg. at 18,614.

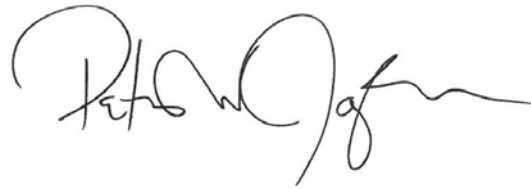
reports will not allow sufficient time for production well owners and operators to collect and compile all necessary data from all entities responsible for operating the well. Therefore, NGSА respectfully requests that EPA extend the annual reporting deadline by 90 days for entities in the onshore production sector.

7. Conclusion

NGSA urges EPA to take these comments into account as it decides its next steps in this rulemaking, and to use utmost caution to avoid imposing unworkable requirements that could seriously harm producers of clean natural gas.

NGSA would be pleased to communicate further with EPA on any of the foregoing comments. Please do not hesitate to contact Patricia Jagtiani at (202) 326-9300 with questions or requests for further information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Patricia W. Jagtiani', with a long, sweeping horizontal line extending to the right.

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