

December 23, 2009

The Hon. Gina McCarthy  
Assistant Administrator, Air and Radiation  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Room 5400  
Washington, DC 20004

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

**Re: Final Rule for Mandatory Reporting of Greenhouse Gases  
Docket No. EPA-HQ-OAR-2008-0508**

The undersigned Associations are writing this letter to express their concerns regarding implementation of the Rule for Mandatory Reporting of Greenhouse Gases (“MRR”) which was promulgated by the Environmental Protection Agency (“EPA”) on October 30<sup>th</sup> (74 Fed. Reg. 56260). The Associations and their members understand that EPA is considering the schedule for the implementation of the Rule and strongly urge EPA to amend the schedule.

The Associations and their members represent a broad and diverse collection of interests employing a wide variety of industrial processes. We appreciate the need for a consistent approach to GHG emissions reporting, and support the development of a single, harmonized national GHG emissions reporting program. The Associations and their members believe that the important objectives of the MRR can be fully realized while at the same time providing for the lead time and flexibility necessary in 2010 to achieve compliance without unreasonably disrupting the economy and critical industrial processes necessary to support the nation’s energy and economic infrastructure. Given the MRR’s scope, importance, and novelty, EPA should spare no opportunity to improve the rule and make it more workable in practical terms.

In short, and for the reasons below, the Associations request that EPA allow the use of “best available monitoring methods” (“BAMM”) through December 31, 2010, for all reporters and stay the effectiveness of the monitoring requirements beyond BAMM for 2010.

EPA did not seek comment on the implementation schedule that it ultimately promulgated in the Rule. This schedule does not provide adequate time for the engineering, design, procurement, installation, and calibration of all required metering equipment. In a great many industrial settings these steps will involve a complex and time-consuming process even when performed on an expedited basis. The required planning must address the engineering

work needed to add or install monitoring devices into a myriad of industrial processes. Typically this will require interruption or outage of the manufacturing or other processes involved. It will require the consideration of worker safety concerns. Obviously time must be allowed for the acquisition of the devices – for which one may assume there is now a much more substantial demand than there has been in the past. Time must be allowed for the shipping of the monitors to the site for installation. Finally the installation itself should be timed so that it does not unnecessarily disrupt the normal operation of the facility involved. In many situations a facility will have to install multiple devices and may well find that the installation areas are difficult to work in or to reach. We are not dealing here with a decision to monitor the local temperature by installing a thermometer on the side of your house. (It should be noted that we read “acquire, install, and operate” in section 98.3(d)(1) to include necessary activities such as planning and engineering; if that is not intended, the provision should be revised to include all the steps necessary to install the monitors in a prudent and effective manner.)

Under the present schedule in the Rule, the monitors must be installed and operating by March 31, 2010 unless a facility owner has applied for and obtained from EPA an extension of that date. The request for the extension must be made by January 31, 2010. It is the firm view of the Associations and their members that this schedule is far too short and that, as a consequence, it will produce a flood of extension requests to EPA which will create a great deal of unnecessary review work and, if serious individual judgments are to be made, is likely to result in the Agency not being able to handle all the requests by March 31<sup>st</sup>. This would in turn put an unfair burden on the affected reporters who would face liability if they continued to operate. Even the uncertainty of not knowing whether an extension will be granted will by itself seriously impact facility operations.

For these reasons, we strongly urge EPA to extend the schedule for requiring the operation of monitors to December 31, 2010. While some monitors and meters will be in place and able to operate by March 31, 2010, it will not be possible to install, calibrate and operate others by the existing deadline.

If EPA is unwilling to adopt this simple solution, there are minimal measures that would relieve the most onerous and difficult aspects of the present rule.

A. Allow the use of “best available monitoring methods” through and beyond December 31, 2010 for appropriate cases. In continuously operated plants there is typically no scheduled shutdown for an entire facility and unit maintenance and turnarounds are not an annual occurrence for all units. EPA has recognized this in the context of instrument calibration, section 98.3(i)(6); it should also provide approval criteria for extending the use of “best available monitoring methods” beyond December 31, 2010 for equipment installation and upgrades where necessary.

B. Strike "to the Administrator’s satisfaction" in 98.3(d)(2)(iii). In addition to A. above, this revision would make it clear that EPA is establishing an impartial standard – which is appropriate in an area where the Agency does not have demonstrated expertise – and that any appeal of the Administrator’s decision is not to be tilted in the Agency’s favor beyond the deference that it would normally receive in such situations.

On behalf of the thousands of facilities operated by our respective members, we strongly urge EPA to give serious and deliberate consideration to the requests in this letter. Our members are working hard toward a goal of full compliance with the MRR and support EPA's goal of providing thorough and accurate information under the Rule. However, we need the appropriate lead time and transition to do so due to the practical necessities of designing, engineering, procuring, installing, and calibrating monitors, and to avoid significant adverse consequences to the nation's economy and infrastructure. Thank you for considering this request; we are willing to discuss it with EPA at any time.

Respectfully Submitted,

American Chemistry Council  
American Coke and Coal Chemicals Institute  
American Iron and Steel Institute  
American Meat Institute  
American Petroleum Institute  
Auto Alliance  
Corn Refiners Association  
The Fertilizer Institute  
Institute of Shortening and Edible Oils  
National Association of Manufacturers  
National Petrochemical and Refiners Association  
Natural Gas Supply Association  
National Renderers Association

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