



State of Ohio Environmental Protection Agency

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Air and Radiation Docket and Information Center
Environmental Protection Agency
Mail code: 6102T
1200 Pennsylvania Ave.,
NW., Washington, DC 20460

RE: Comments on Mandatory Reporting of Greenhouse Gases (GHG) Docket ID No.
EPA-HQ-OAR-2008-0508.

Dear Administrator Jackson,

Thank you for the opportunity to comment on the Mandatory GHG Reporting Rule published in 74 Federal Register (page 16448) on April 10, 2009. Ohio EPA has reviewed the package and presents the attached comments on the proposed rule.

If you have any questions on the submittal, please contact Robert Hodanbosi at 614-644-2270.

Sincerely,

Chris Korleski
Director

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Ohio EPA Comments on U.S. EPA's Mandatory Reporting of Greenhouse Gases

Background

On April 10, 2009 U.S. EPA proposed a regulation that requires the reporting of greenhouse gas (GHG) emissions from all sectors of the economy in 74 Federal Register (page 16448). This proposed rule is in response to President Bush signing the FY 2008 Consolidated Appropriations Act on December 26, 2007, which authorized \$3.5 million dollars to U.S. EPA to develop and publish rules that require mandatory reporting of greenhouse gases above appropriate thresholds in all sectors of the economy. U.S. EPA was directed to utilize the existing authority under the Clean Air Act to promulgate these rules.

General Comments

In general, Ohio EPA is in support of U.S. EPA proposing a mandatory greenhouse gas reporting rule. We commend the agency for publishing requirements to measure greenhouse gases from the largest sources in our economy. U.S. EPA is currently not implementing a "bottom-up" national approach to measuring the U.S. economy's GHG sources, which is essential for states like Ohio that do not have a greenhouse gas emission inventory. A mandatory national greenhouse gas reporting rule will alleviate the burden on businesses that operate in multiple states subject to diverse requirements.

Reporters (economy-wide reporting)

We agree with U.S. EPA's economy-wide approach and believe it is consistent with Congress's intent to require the majority of sources in the U.S. economy. U.S. EPA proposed the best method of economy-wide reporting by requiring facility-level data broken-up by source category for direct GHG emitters, while allowing for the flexibility to report differently for fossil fuel and GHG suppliers as well as motor vehicle and engine manufacturers (e.g., upstream and downstream emissions reporting¹).

It is extremely useful that direct emitters report based on reporting category at the facility-level. For example, if a facility operates a large boiler as well as an aluminum production process the two types of categories would be reported separately to accurately identify the origin of each GHG emission source. Ohio EPA agrees with this method and with the source categories put forth in the proposed rule.

Fossil fuel and GHG industrial suppliers will also report GHG emissions using an upstream approach where the owner/operator of a company will report the amount of GHGs emitted based on the CO₂e potential of the quantity of annual fuel supplied by that company to the U.S. economy.

¹ Upstream reporting refers to the GHG emissions potential for a quantity of industrial gas or fossil fuel supplied in the economy. Downstream reporting refers to GHG emissions emitted directly from a stack or source.

The way U.S. EPA has set up this rule there is some double counting for certain fuels. For example, coal suppliers are required to report GHG emissions utilizing the upstream approach and at the same time electric generating units are required to report GHG emissions from burning the same coal, utilizing the downstream approach. U.S. EPA explains in the proposed rulemaking that the agency recognizes this double counting exists and will not sum both reported emissions together. We appreciate U.S. EPA recognizing double counting exists and believe it would be helpful to take advantage of the more detailed data to better assist in future policy developments. We believe this approach is acceptable, however, we ask that U.S. EPA pay special attention to inform the public about how the emissions are accounted for so there is little confusion regarding the total amount of GHG emissions emitted in the U.S. economy.

Applicability threshold – 25,000 metric tons of CO₂e

U.S. EPA's proposed mandatory GHG reporting rule requires sources that emit more than 25,000 metric tons of CO₂e to report GHG emissions to U.S. EPA. According to U.S. EPA's analysis, approximately 54.9% of U.S. greenhouse gas emissions would be covered through downstream sources at 25,000 metric tons of CO₂e threshold and 30-35% of total U.S. greenhouse gas emissions would be covered via upstream sources totaling approximately 85%-90% source coverage in the U.S. economy.

Compared to the proposed 25,000 metric tons of CO₂e threshold, decreasing the threshold to 10,000 metric tons of CO₂e would increase the downstream GHG emissions coverage by less than one percent while increasing the downstream reporters from 13,205 facilities to 20,765. Similarly, decreasing the threshold to 1,000 metric tons of CO₂e would increase the downstream GHG emissions coverage by 1.1% and would increase the number of covered facilities to 59,587. While lower thresholds broaden national emissions coverage, it disproportionately increases the number of affected facilities. Therefore it is Ohio EPA's opinion that the gains in emissions coverage are not adequately balanced against the increased number of affected facilities. The proposed threshold of 25,000 metric tons of CO₂e sufficiently captures the majority of GHG emissions in the United States while keeping reporting burden to a minimum by excluding smaller emitters.

Agriculture Sources

Manure management facilities that emit more than 25,000 metric tons of CO₂e is a source category subject to the proposed GHG mandatory reporting rule. For the purposes of this rule a manure management facility consists of uncovered anaerobic lagoons, liquid/slurry systems, pits, digesters, and dry lots, onsite manure composting, other poultry manure systems, and cattle and swine deep bedding systems. According to the 2008 U.S. GHG Inventory, CH₄ emissions accounted for 8% of total anthropogenic CH₄ emissions and 3% of N₂O emissions in the U.S. Ohio EPA agrees that this source category should be included in the GHG mandatory reporting rule; however U.S. EPA's has seriously underestimated the number of sources covered under the 25,000 metric ton of CO₂e threshold. U.S. EPA estimates that fewer than 50 manure management systems nation-wide would be required to report. Ohio alone has an estimated 17 facilities above the 25,000 metric ton of CO₂e threshold, one third of U.S. EPA's

estimated facilities. Although Ohio has a diverse and significant agriculture industry, we do not believe that Ohio would have one third of all sources in the country.

GHG Reporting Schedule

In terms of reporting schedule, U.S. EPA is proposing to require annual GHG emissions submissions, except for EGUs subject to the Acid Rain Program that already report quarterly through 40 CFR Part 75. Reporting would be mandatory on an ongoing basis with no sunset period, and once a source is subject to the reporting rule it will continue to be required to submit reports even if the source falls below the reporting thresholds in future years.

Ohio EPA agrees with the annual submission requirements and requiring GHG reports be submitted without a sunset provision. It is important to gather GHG emissions information over a period of time rather than providing just snapshot. Generally reporting rules are not useful if only used for a short period of time such as one or two years. We prefer an ongoing reporting program that requires an annual submission which is consistent with other air emissions reporting programs, is useful to understand trends over time, and will be even more useful if future greenhouse gas regulations are promulgated.

However, Ohio EPA does not agree with the full set of reporting scheduling requirements in the proposed rule. U.S. EPA proposes to require a source that is subject to the reporting rule to continue to report GHG emissions indefinitely even if the source falls below the reporting thresholds in future years. It is Ohio EPA's opinion that there should be some flexibility built into the proposed rule for when a source reduces emissions below a certain percentage, a source shuts down, or a source emits GHG emission below 25,000 metric tons of CO₂e over a period of time. For example if a source is emitting 30,000 metric tons of CO₂e and then puts controls on their facility or experiences shut down that results in lower emissions of 50% then the source would only be emitting 15,000 metric tons of CO₂e for the life of the facility but would still be required to report GHG emissions indefinitely. Rather, Ohio EPA suggests that U.S. EPA be more flexible for sources that reduce their emissions below a certain percentage under the 25,000 metric tons of CO₂e threshold (E.g., 20%-50% below 25,000 metric tons of CO₂e) or is below the applicable threshold by any percentage for a period of time (e.g., 3 years).

Adequacy of Current National GHG Reporting

U.S. EPA requests comments regarding the adequacy of the current method of reporting national GHG emissions data as the mechanism for a mandatory GHG report rules prescribed under FY 2008 Consolidated Appropriations Act. Currently, the U.S. has reported national GHG inventory to the Secretariat of the UNFCCC to comply with the international requirement since 1993. The national GHG inventory is a comprehensive top national assessment using high-level national energy data, activity data, statistics, surveys and other national statistics (e.g., on agriculture) for emissions calculations. Although this sufficiently meets the requirements of the UNFCCC, Ohio believes this is not the appropriate mechanism for a mandatory reporting program. It is very important for a national GHG mandatory reporting

program to require facility level data to accurately obtain GHG data for a full scope of source categories and geographic detail that will be useful for national, state-level and local future policy decisions. In Ohio, we have many industrial sectors that emit process emissions that may not be captured through top-level fuel use data at the national level and believe the reporting categories and method of reporting in the proposed GHG mandatory reporting rule will better cover the appropriate number of sources emitting GHG emissions.

Monitoring Requirements

Ohio EPA agrees with U.S. EPA's approach to incorporate a combination of direct emissions measurement and facility specific calculation methods. Where it is not technically feasible for sources to directly measure GHG emissions, such as through a continuous emissions monitoring system (CEMS), the source should be able to utilize facility specific calculation methods to measure GHG emissions. This option strikes a good balance between reducing cost by not requiring direct measurement equipment installation for all sources while providing a reasonably high degree of certainty that incorporates existing practices at facilities.

Verification

The majority of Ohio EPA's involvement with GHG reporting and verification has been directed at encouraging companies in Ohio to voluntarily report GHG emissions through The Climate Registry, a North American registry that collects high-level, consistent GHG data and makes the information available to the public. Ohio is a member of The Climate Registry and supports the organization's mission. As a member of The Climate Registry we feel third-party verification is the best way to ensure that the data The Climate Registry collects is clear of any material misstatements. This procedure follows the World Resources Institute (WRI) internationally recognized GHG Reporting Protocol. Furthermore, The Climate Registry would have to dedicate a large amount of resources to internally verify every emissions report, increasing the cost of annual reporting fees and unduly burden on The Climate Registry staff.

On the other hand, in the case of the proposed U.S. EPA mandatory GHG reporting rule, Ohio EPA believes third-party verification should not be required. U.S. EPA is conducting an internal verification of GHG emissions data submitted to the agency and many stakeholders are not in favor of third-party verification because of the cost to hire a third-party verifier and ensemble the data needed for a third-party audit. We also believe it is important for US EPA to have a consistent method for verifying GHG emissions reports without developing a third-party verification protocol. We encourage U.S. EPA to develop a rigorous internal verification system so that reported GHG emissions are reviewed at a level necessary to ensure completeness and accuracy. We also ask, in the future, U.S. EPA to be open to third-party verification in the event carbon offsets become part of any future climate change regulations.

End Comments