October 6, 2022

Via Electronic Filing

Jennifer Bohman
Climate Change Division
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Proposed Rule, U.S. Environmental Protection Agency, Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule; 87 Fed. Reg. 36920 (June 21, 2022) and 87 Fed. Reg. 42988 (July 19, 2022), EPA–HQ–OAR–2019–0424

Dear Ms. Bohman:

The undersigned industry organizations appreciate the opportunity to comment on the U.S. Environmental Protection Agency (EPA) proposed rule titled "Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule." The proposed rule would change the existing program's data collection requirements, would expand the collection of data to new industrial sectors, and would alter confidential business information (CBI) protections, among other changes.

The business community has been successfully reporting greenhouse gas emissions (GHG) to EPA through the Greenhouse Gas Reporting Program (GHGRP) since 2010. The requirements that are currently in place have been developed through years of cooperative engagement between EPA, the business community, and other stakeholders. The agency should continue to seek detailed and thorough public input due to the importance of this reported data, the detailed nature of the requirements, and the importance of avoiding costs that are unnecessary or that outweigh the benefits of providing the particular data at issue.

We respectfully request that EPA consider and adopt the following recommendations in the final rulemaking. This includes specifically responding to and addressing the following recommendations, as discussed in further detail below:

1. **The compliance deadline should be delayed to allow at least one year from the date of the final rule publication in the Federal Register before new reporting is required.**

2. Flexibility in reporting is needed to allow companies to report measured emissions in lieu of using emission factors.
3. EPA should ensure that any new or revised recordkeeping and reporting requirements meet the requirements of the Paperwork Reduction Act.
4. EPA should update its estimate of the burden and associated costs of the proposed rule's recordkeeping and reporting requirements to more accurately reflect the full burden imposed on the public.
5. EPA should adequately evaluate the costs of the rulemaking, including the cumulative regulatory impacts on businesses consistent with EO 13563.
6. EPA should implement the subpart-specific recommendations detailed below to provide clarity and lower the burden of the recordkeeping and reporting requirements for both the existing requirements and proposed revisions.

Due to the breadth of the sectors covered and complexity of the emissions reporting program, it is important that any changes EPA might finalize to the reporting requirements are adequately justified, have practical utility, and are durable. Durable regulations that avoid creating overreaching or unreasonable requirements help the business community by creating a stable investment environment and fostering innovation that will lead to fewer implementation delays and better environmental outcomes.

1. **The compliance deadline should be delayed to allow for a minimum of one year from the publication of the final rulemaking in the Federal Register and begin on the date of the beginning of the next calendar year.** If for example, EPA were to publish the final rulemaking in the Federal Register by November 2023 as the agency indicated in its Spring 2022 regulatory agenda,[1] then compliance for the final rulemaking should not begin until January 1, 2025.

We understand EPA's desire to collect the newly required GHG emissions data as soon as possible, starting at the beginning of January 1, 2023. However, this timeline is neither reasonable nor likely even possible for the more than 10,000 facilities that the agency estimates are affected by the rule changes. If the agency were to rush to finalize the rule prior to the end of this calendar year as proposed, the agency would not be able to adequately consider and engage the public on the many issues in the comments anticipated on the proposal.

After several of the final rulemakings for the GHGRP containing major updates or added new sectors, the agency followed up with a technical corrections

[1] U.S. EPA 2022 Spring Unified Agenda of Regulatory and Deregulatory Actions, https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202204&RIN=2060-AU35

rulemaking.[2] Through the public engagement process, the agency identified errors or other issues relating to the release of the final rules that required ensuing updates. Although technical correction regulations are not intended to impose new or substantive requirements that may require public comment,[3] these rulemakings often provide important clarifications or additional detail that may change the recordkeeping and/or reporting obligations of reporters.

The technical nature of these requirements, and the diversity of facilities that report under the program, requires tailoring the reporting requirements. Adequate time for public review of the proposed requirements is needed to fully consider to the differences in facilities and operations across different industrial sectors. No two industrial facilities are completely alike, even if they are owned or operated by the same company.

In addition, it would be arbitrary and unreasonable to create impossibly short deadlines that entities would not be likely to meet, due to limited available resources at the end of a calendar year and expected high demand for the same pool of expert consultants, emissions monitoring companies, and data acquisition and handling system companies. Time is needed to identify emissions and the best monitoring or estimation methodology. Time is also necessary to establish internal company systems and protocols, install capital equipment, and/or make software upgrades. Even if the agency would allow for facilities required to conduct new monitoring to use best available monitoring methods (BAMM) for annual reports, it would not alleviate the need to make changes to comply with all the other revisions included in the proposed rule.

For the facilities that have the option to use one of EPA's BAMM, sufficient time would be needed to review and then implement any monitoring and reporting changes. The BAMM document is very technical in nature and is issued following the rulemaking update that contains specific, often unique monitoring methods for each industry. Rushing the rulemaking process will not only increase the likelihood of errors in EPA's BAMM methods but will also cause an inefficient use of thousands of companies' resources, such as by alerting the agency of significant errors or other needed corrective revisions.

To limit the crunch for third-party technical experts, to improve the efficiency and durability of the proposed rule, and for other reasons discussed in these comments, we recommend that the agency require compliance with the rule no earlier

[2] The original GHGRP final rulemaking was issued on October 30, 2009 (74 FR 56260), and the ensuing technical corrections final rule was issued more a year later on October 28, 2010 (75 FR 66434). An additional technical corrections final rule was issued two months later on December 17, 2010 (75 FR 79092).
[3] Administrative Procedure Act (5 U.S.C. 553).

than the beginning of the calendar year that allows for at least one year of compliance with the current rule following the publication of the final new rule in the Federal Register.

2. Flexibility in reporting is needed to allow companies to report measured emissions in lieu of using emissions factors. EPA should not mandate that facilities use the agency's emissions factors to report emissions, as it may lead to over reporting of emissions. The agency should allow companies to report measured emissions and provide sufficient planning time so that companies have the option to use measured emissions.

Not only is this flexibility important to ensure accurate reporting of emissions to the agency that may be used for establishing GHG emissions reduction policies or promote other fiscal policies, but it is also important to allow companies to appropriately differentiate themselves from their sectorial peers. Many companies have made public commitments to reduce their GHG emissions that would demonstrate that they are performing better than the industry average or other value reflected in EPA's emissions factor estimates.

Recent business community comments on EPA's Proposed Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review explain the importance of providing the ability to report measured emissions.[4] The comments stated the following:

> "Prescriptive (sometimes called "command-and-control") regulation directs regulated entities to take specific actions. Methane emissions regulations that are too prescriptive can discourage technological advances. For example, current NSPS regulations for stationary sources can require specific methodologies for leak detection and repair ("LDAR") (e.g., Method 21), which do not always provide for the inclusion of technological advancements in the field of leak detection that can develop rapidly and in advance of regulations. Advancements in the use of aircraft surveys, drones, and/or other remote sensing technologies serve to minimize the number of personnel associated with physical, on-site measurement, avoiding the concomitant risks to safety and health. Performance-based regulation, on the other hand, aligns the interests of asset managers and engineers in the use of technological advances with societal goals to reduce methane emissions because performance-based

[4] 86 FR 63110 (November 15, 2021)

> standards mandate an outcome and encourage regulated entities to employ and develop technological efficiencies that regulators may not anticipate." [5]

If performance-based monitoring requirements are allowed similar to what was described in the above referenced industry comments, it would provide industry the flexibility to use innovative measurement technologies and techniques. These technologies and techniques will continue to evolve. Allowing this flexibility in the GHGRP rule would promote more cost effective and more accurate monitoring and would prevent the regulations from becoming outdated or from requiring the reporting of less precise and less useful data as new technologies are developed. Moreover, in the Inflation Reduction Act (IRA) enacted in August, Congress required EPA to revise Subpart W to allow companies to provide "empirical data" regarding emissions.

Also, companies use their data reported under the EPA GHGRP to demonstrate their progress in meeting certain environmental, social, and government (ESG) goals.[6] If companies are not able to differentiate themselves by measuring their emissions, their compliance alternatives under existing or future regulatory and voluntary programs may require reducing the output or size of their operations as their only cost-effective compliance option.

3. EPA should ensure that any new or revised recordkeeping and reporting requirements meet the requirements of the Paperwork Reduction Act (PRA) regarding maximizing the utility and quality of the information collected. EPA estimates that 85-90% percent of U.S. GHG emissions are already reported under the GHGRP without considering the addition of other sectors as proposed.[7] With almost all U.S. GHG emissions already being reported through the program, the agency should explain the practical utility of each additional requirement that would augment reporting burdens.

The Paperwork Reduction Act (PRA) requires agencies to ensure the "practical utility" of any collected information, practical utility is defined in the PRA implementing regulations as follows:

> "*Practical utility* means the actual, not merely the theoretical or potential, usefulness of information to or for an agency, taking into account its accuracy, validity, adequacy, and reliability, and the agency's ability to process the information it collects (or a person's ability to receive and process that which is

[5] Comments of the U.S. Chamber of Commerce. https://www.regulations.gov/comment/EPA-HQ-OAR-2021-0317-0921

[6] For example, many electric utilities have set various levels of carbon-reduction targets from net-negative, 100% renewable, net-zero, to partial GHG reduction. See https://sepapower.org/utility-transformation-challenge/utility-carbon-reduction-tracker/

[7] Learn About the Greenhouse Gas Reporting Program (GHGRP), https://www.epa.gov/ghgreporting/learn-about-greenhouse-gas-reporting-program-ghgrp

disclosed, in the case of a third-party or public disclosure) in a useful and timely fashion..."[8]

The agency should explain the actual usefulness of the information collected, not just the theoretical or potential usefulness for some distant, future regulatory policy. Providing explanations for why the agency is collecting each subset of data will help inform the agency whether certain data elements are truly useful.

4. **EPA should update its estimate of the burden and associated costs of the proposed rule's recordkeeping and reporting requirements to more accurately reflect the full burden imposed on the public.** EPA's estimate of burden should be consistent with the requirements of the PRA implementing regulations that require the agency to consider the "time, effort, and financial resources necessary to comply with the information collection," including estimating the "time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information."[9]

EPA estimates that 10,041 facilities would be affected by the proposed rule revisions and that the added cost would be over $1.4 million per year. The capital/startup and operation and maintenance costs were only estimated to be $7,281 per year for all 10,041 facilities. The average estimate provides limited information regarding the impacts of the program, particularly on newly affected entities. EPA should also include the estimated cost range for affected facilities in addition to providing the average, as the average cost conceals the higher and lower end of the cost impacts. To better assess the costs, EPA should separate out the costs of compliance for the newly affected entities from those that are already participating in the program.

For those being included in the program for the first time, the time and capital investment will be much higher, as facilities will need to develop templates and protocols. The agency should reflect these differences in its cost estimates as opposed to spreading the cost across all entities through an average estimate. The agency has proposed to expand the applicability of the reporting requirements to smaller and smaller sources of emissions, by expanding to new industrial sectors, which will lead to proportionally higher costs of implementing the program for those sources.

Smaller emissions sources are likely smaller sized businesses who if required to comply with the rule would be disproportionately impacted compared to larger businesses. EPA's estimate in the Regulatory Flexibility Act section of the preamble

[8] 5 CFR Part 1320.3(l)
[9] 5 CFR 1320.3(b)(1)-(b)(2)

states that the "reporting and recordkeeping in this action for each subpart are less than $100 per entity, with an average annual burden increase of $46 per entity,"[10] which appears to be an underestimate of the public burden to implement the recordkeeping and reporting requirements. This estimate appears to ignore many of the components of burden[11], some of which are listed below and are cited in the PRA implementing regulations[12] that the agency is required to analyze.

- Reviewing instructions;
- Compiling materials necessary for collection;
- Acquiring, installing, and utilizing technology and systems;
- Adjusting existing ways to comply with previous instructions and requirements;
- Searching data sources;
- Completing and reviewing collected information; and
- Compiling and sending information.

Other elements such as reading the Federal Register final rulemaking notice and training employees regarding the new recordkeeping and reporting requirements should also be considered as part of the estimated burden. The agency should also consider the time and cost burdens of performing detailed calculations, which are substantial for some industrial sectors.

Additionally, the agency's Information Collection Request Supporting Statement[13] appears to underestimate the burden of reporting as it describes the reporting as annual reporting while many of the recordkeeping and reporting requirements require affected entities to perform recordkeeping or reporting action on a monthly, quarterly, or semi-annual frequency.[14]

EPA estimated the average hourly burden of the proposed revisions as totaling less than two hours per entity affected. Monetizing the time burden for compliance with the recordkeeping and reporting requirements for the various layers of a company from the clerical workers, skilled and craft labor, professionals, and executives would easily exceed EPA's average burden estimate.

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[10] 87 FR 37034 (June 21, 2022)

[11] 5 CFR 1320.3 (b)(1) "*Burden* means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency, including:"

[12] 5 CFR 1320.3 (b)(1)(i)-(ix)

[13] Information Collection Request for the Greenhouse Gas Reporting Program: Revisions and Confidentiality Determinations for Data Elements for the Greenhouse Gas Reporting Rule; Proposed Rule, https://www.regulations.gov/document/EPA-HQ-OAR-2019-0424-0131

[14] Proposed rule regulatory text at Subpart A of § 98.33, § 98.36, § 98.37, § 98.77, § 98.83, § 98.147, § 98.163, § 98.164, § 98.167, § 98.193, § 98.197, § 98.426, § 98.427.

The agency should also provide further analysis of the cost burden impacts of this action across different sized companies, beyond using average numbers. The agency should also report the range of costs from the high end to the low end of the cost impacts, to be more transparent concerning the differential impacts for various businesses and sectors. By comparing the average cost of the program to the average company revenue, the resulting percentage of that cost compared against company revenue may seem small but will likely be a larger cost burden and more impactful when compared with smaller business revenue.

5. EPA should adequately evaluate the costs of the rulemaking, including the cumulative regulatory impacts on businesses consistent with EO 13563. EO 13563 directs the agency to "tailor its regulations to impose the least burden on society," while "taking into account...the costs of cumulative regulations."[15]

To illustrate this point, the agency compares the annualized costs as a percentage of annual revenues in the Regulatory Flexibility Analysis section of the rule to claim it would only anticipate the costs to be less than 0.10 percent of sales. Although EPA has recommended the use of this method of considering the direct costs of regulations on the public in the agency's Guidelines for Preparing Economic Analyses, this method of comparing the ratio of costs to revenue does not consider the cumulative regulatory impacts of the current set of regulations and the large number of new regulations being issued by this agency and others across the federal government.

Over the last 20 months, federal agencies have issued over 600 regulations (300 final rules and over 300 proposed rules) that are estimated to impose billions in costs on the public. For EPA alone, the agency's top ten air rules issued over the last 20 months are estimated by the agency to cost over $400 billion, more than the 1Q2022 individual state GDPs for 30 states and the District of Columbia.[16] EPA and other federal agencies often develop their regulatory proposals in isolation from one another, ignoring the cumulative regulatory burdens imposed on businesses. Businesses, however, do not have that luxury and are required to comply with all applicable federal regulatory requirements. The agency's cost-to-revenue ratio analysis also ignores the costs imposed on businesses by state agencies, many of which have ambitious regulatory agendas of their own.

[15] EO 13563 (January 18, 2011)

[16] Alabama, Alaska, Arkansas, Connecticut, Delaware, District of Columbia, Hawaii, Idaho, Iowa, Kansas, Kentucky, Louisiana, Maine, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Vermont, West Virginia, Wisconsin, and Wyoming

Also, merely comparing costs against revenue ignores whether or not there are slim profit margins in a particular industrial sector or individual business. In the Regulatory Flexibility Act section of the preamble, EPA asserts it finds no significant impact on small businesses. With the agency adding numerous new recordkeeping and reporting requirements on additional new industry categories in the proposed rule, the time and cost burden will only increase and will be increasingly burdensome to smaller entities.

6. EPA should implement the following subpart-specific recommendations to provide clarity and lower the burden of the recordkeeping and reporting requirements for both the existing requirements and proposed revisions.

a. Subpart A—General Provisions

i. *40 CFR Part 98.4(h)* – The agency has provided new language that lays out the reporter responsibilities for instances where there is a transfer of ownership of a facility in the middle of a given calendar year. To further improve clarity, EPA should indicate under § 98.4(n)(1) and (2) that a certificate of representation, intended to reflect the new owner or operator, should be submitted by the new owner or operator. Similarly, under § 98.4(n)(4), EPA should indicate that only the new owner or operator should be responsible for notifying EPA of the purchase of a facility. Finally, as related to the correction of errors that were reported prior to the transfer of facilities under § 98.4(n)(5), EPA should clarify that the selected representative, the alternate designated representative, or agent for the facility is responsible only for addressing corrections for the reporting years prior to the sale of the facility.

ii. *40 CFR Part 98.3(h)(4)* – The agency has proposed to limit, to 180 days, the number of days during which a reporter may request to extend the time period for resolving a substantive error either by submitting a revised report or by providing information demonstrating that the previously submitted report does not contain the alleged substantive error. We request that the agency not place an inflexible cap on the number of days to resolve reporting issues. These extensions can be helpful for newly affected sources, when there is a change in facility ownership, and in other situations. Alternatively, the agency should increase the limit of the total number of days a reporter can request an extension beyond the currently proposed 180 days to provide reporters more time to work through the current and new provisions in the program.

b. Additional Requests for Comment

i. EPA Should Rely on Current Government Collections of Government Energy Consumption Data and Should Not Institute a New Set of Reporting Requirements for Indirect Emissions - The agency is taking comment on whether to require the reporting of indirect emissions from purchased electricity consumption and thermal energy products. As EPA is currently collecting direct emissions data from between 85-90% of emission sources, collecting indirect emissions data would be highly redundant and would likely give rise to double counting problems. EPA already collects detailed GHG emissions data from electric utilities in Subpart D of this program that draws into question the value of the additional reporting and the associated cost. Energy consumption for facilities reporting under Subpart D is often self-generated and would already be reported under Subpart D. In addition, the agency collects hourly emissions data from utilities as part of the Acid Rain Program and other data for related regulatory programs. The Energy Information Administration collects detailed information concerning electricity and energy product sales, generation, transactions, consumption of fuels, and much more. With this information already collected by EPA and EIA, the agency should use these existing data collection sources as opposed to expanding the GHGRP collection to indirect emissions. If EPA were to decide to proceed to collect this additional information, the agency would need to first demonstrate that doing so meets the practical utility and least burdensome approach requirements of the PRA.

ii. Furthermore, the legislative basis that the agency is relying upon to justify its expansion of GHG reporting to include indirect emissions is unfounded. The agency refers (on page 37018) to the 2008 Consolidated Appropriations Act. The language there merely directs the EPA to develop and publish a rule "to require mandatory reporting of greenhouse gas emissions above appropriate thresholds in all sectors of the economy of the United States." If the agency is already receiving emissions data on 85-90% of the America's GHG emissions, the only potential gap in relation to the 2008 Consolidated Appropriations Act language is with respect to the remaining 10-15%, which the agency can attempt to address through considering potential additional requirements (to the extent that such requirements would be justified and reasonable, without imposing undue costs) for reporting of direct emissions, consistent with the

current regulatory framework focused on such emissions. The gap in achievement does not require reporting of indirect emissions; in fact, that would duplicate current reporting of the direct emissions of the power sector, as stated above, and there is no practical utility for reporting indirect emissions.

c. Subpart C—General Stationary Fuel Combustion Sources

i. *EPA Should Eliminate Double Reporting of the Same Data in Different Subparts* - As Subpart C is a reporting category covering a broad range of stationary fuel combustion sources, we are concerned about the potential for overlap between the reporting required under this subpart with reporting required under other sector-specific parts of the program. Due to the possibility of redundant reporting requirements, EPA should clarify that any source that reports in a specific subpart is not again required to report emissions from the same source in a second subpart. This would provide more clarity for affected entities and would reduce duplicate reporting of the same data.

ii. *EPA Should Continue to Require Separate Reporting of Biogenic Emissions* - For example, EPA proposes that users of tire-derived fuel (TDF) report biogenic emissions separately by relying on an updated default factor: 0.24. Given the 24% natural rubber average in the scrap tire stream, as calculated by the U.S. Tire Manufacturers Association, and supported by emission test data submitted by the Portland Cement Association, the biogenic emissions from TDF should be reported separately.

iii. 40 CFR 98.34(e)[17] - We request that EPA expand the last sentence of this provision to include all combined biomass and fossil fuels and to allow for testing at one source when a common fuel is combusted. EPA specifies quarterly ASTM D6866-16 and ASTM D7459-08 testing to determine the biogenic portion of combined biomass and fossil fuels. The last sentence of this paragraph allows for testing of one representative unit for a common fuel source for tire combustion only. In some cases, facilities could have dozens of combustion units that burn the same fuel, and testing each source quarterly would impose unnecessary burdens and safety hazards on entities without enhancing accuracy.

[17] 40 CFR 98.34(e)

d. Subpart W—Petroleum and Natural Gas Systems

i. EPA Should Postpone Finalizing the Subpart W portion of the Proposed Rule and Should Conduct a New, Single Subpart W Rulemaking to Incorporate Changes Called for by the IRA. In the Alternative, EPA Should Issue a Notice Explaining How the Passage of the IRA Impacts the Implementation of the Subpart W Requirements – Congress passed the IRA on August 16, 2022, a full month after EPA issued this proposed rule. The IRA imposes a fee on methane emissions reported pursuant to this subpart beginning with emissions reported for calendar year 2024. The IRA requires EPA, within two years of enactment of the IRA (by Aug. 2024), to revise the requirements of Subpart W to ensure that the reporting and calculation of fees are based on empirical data and accurately reflect total methane emissions. In addition, EPA has yet to propose regulatory text for the initial revised oil and gas New Source Performance Standards (NSPS)[18] and the supplemental notice, which is referenced by the GHGRP proposed rule and is currently under EO 12866 review by the Office of Management and Budget. To avoid confusion and duplication and to save resources for both the agency and industry, EPA should postpone finalizing the Subpart W portion of the Proposed Rule, as requested above. EPA can then conduct a new integrated Subpart W rulemaking that knits together the IRA revisions, the oil and gas NSPS related provisions, and other revisions from this proposal. EPA should expeditiously issue a notice clarifying the process and timing for promulgating the recordkeeping and reporting requirements under Subpart W required by the IRA Companies will need to make operational and spending choices to comply with both the NSPS and the IRA's new empirical Subpart W rules and need to synchronize the two efforts as much as possible to minimize compliance costs.

ii. EPA Should Align Emission Factors (EFs) Between Its GHG Reporting Programs – Currently EPA's mandatory GHGRP and the *Inventory of U.S. Greenhouse Gas Emissions and Sinks (GHGI)* use different emissions factors for some of the same sources, including the distribution mains and services and metering and regulating stations. EPA's proposed rule would align some of the GHGRP emission factors, which is helpful; however, EPA is also proposing the use of completely different sets of emission factors that do not align with

[18] 86 FR 63110 (November 15, 2021)

either of its current GHG programs. For example, EPA has proposed to use revised emission factors in Subpart W for different types and materials of distribution pipes based on a study that did not verify the types and materials of the pipe, among other shortcomings. EPA should instead use the emission factors already used for the GHG Inventory, which are based on a study that did verify pipe type and material and provided a more reliable assessment of emissions from distribution mains and services. Having multiple emission factors for the same source, under similar programs, creates confusion and adds additional burdens on reporters. Moreover, the proposed changes would indicate that unprotected steel mains have lower emissions rates than modernized protected steel mains. Any such claim would be inaccurate. Indeed, modernized protected steel mains have lower associated emissions rates and are currently being installed by regulated utilities who are seeking approval for, or are implementing, pipeline replacement projects/programs which are aimed at replacing aged infrastructure such as cast iron and unprotected steel pipelines.

iii. *EPA Should Allow for Direct Measuring Options as an Alternative to Emissions Factors* –There are various industry standards bodies that develop consensus and other types of methods for emissions measurement and verification. For example, GTI Energy is working with experts from industry, academia, and non-governmental organizations to develop consensus protocols for methane measurement and verification for each segment of the natural gas supply chain. They expect to release the "Veritas" protocols at the end of 2022 to help inform EPA.[19] EPA should provide the option for utilizing direct measurements and company specific data in lieu of relying on or supplementing the use of EPA's default emission factors, for many of the reasons noted above.

iv. *EPA Should Allow for Direct Measuring Options, But Should Not be Mandatory* – There are some challenging applications where it would be cost prohibitive or infeasible to directly monitor GHG emissions. For example, the concept of continuous emissions monitoring as used for "facilities" is not applicable to linear, non-discrete assets

[19] The segment-specific Veritas Measurement Protocols are intended to provide a framework for quantitative measurement of methane emissions from sources and discrete sites within each segment of the natural gas value chain from production through distribution. Whole site, whole system, and focused methane measurement technologies are evolving rapidly, and the measurement protocols are not prescriptive in terms of the measurement technologies to be deployed. The Veritas protocols were developed to help reconcile measured emissions with emission factor-based inventories. https://www.gti.energy/veritas-a-gti-methane-emissions-measurement-and-verification-initiative/

like natural gas or liquid distribution systems. It is not possible to directly measure through continuous emissions monitors the thousands of miles of natural gas pipelines. Additionally, there may be more cost-effective alternatives to continuous monitoring such as more frequent inspection and leak repair in cases where facilities have no vented emissions sources. For facilities without vented emissions, continuous monitoring is expensive to install and maintain and is often not cost effective from an emissions abatement perspective. In populated operating environments, high incident rates of false positives can also significantly increase operational costs, giving rise to our recommendation to allow, but not make mandatory, direct emissions measurement.

v. *EPA Should Clarify the Definition of "Distribution Pipeline" if PHMSA Fails to Clarify Its Newly Revised Definition of "Transmission" Pipeline* - In a petition for reconsideration (filed September 23, 2022) pertaining to the recently promulgated definition of "transmission" pipeline published by the Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) in 49 C.F.R. 192.3, the American Gas Association notes a number of practical and legal problems related to the addition of the phrase "or connected series of pipelines" to the definition of transmission pipeline. If PHMSA does not remove this phrase, its definition of transmission pipeline would in turn render EPA's definition of natural gas "distribution" pipeline similarly problematic on legal and practical grounds, due to EPA's reliance on PHMSA's definitions, giving rise to the concern that the definition may violate the Administrative Procedure Act or may be otherwise unlawful. EPA should urge PHMSA to remove the phrase. If PHMSA does not do so, EPA will need to clarify its definition of distribution to eliminate this source of ambiguity and confusion related to determining which pressure regulating stations are Transmission to Distribution (T-D) stations subject to annual surveys, among other Subpart W requirements for distribution.

vi. EPA Should Add a Section for Subpart DD- Electrical Transmission & Distribution Equipment Use - EPA introduces the potential to require reporting of fluorinated GHGs outside the electric transmission and distribution facility regardless of whether the threshold is exceeded for facilities already reporting under the GHGRP. Requiring the tracking of fluorinated GHGs would entail a significant burden, and adding such a requirement would result in a very small magnitude of

additional emissions captured compared to the significant level of effort and cost required.

vii. *EPA Should Update the Draft Versions of the CBI Tables* - We ask that EPA publish updated draft versions of the CBI tables[20, 21] to assist reporters concerning confidentiality determinations made under the proposed requirements.

The business community has been successfully reporting under the GHGRP program for over a decade and has worked with EPA through each iteration to improve the reporting program. We ask the agency to delay the implementation of the program to provide sufficient time for compliance; to allow companies the flexibility to submit measured emissions; to account for and report the full range of cost and time burdens associated with the revisions; and to adopt the various changes referenced above. Thank you for considering our comments.

Sincerely,

American Chemistry Council
American Forest and Paper Association
American Fuel and Petrochemical Manufacturers
American Gas Association
American Petroleum Institute
Independent Petroleum Association of America
Interstate Natural Gas Association of America
U.S. Chamber of Commerce

[20] https://www.epa.gov/sites/default/files/2020-04/documents/direct_emitters_cbi_table.pdf
[21] https://www.epa.gov/sites/default/files/2020-09/documents/ghgrp_cbi_tables_for_suppliers_8-28-20_clean_v3_508c.pdf