



Mandatory Greenhouse Gas Reporting Rule: EPA's Response to Public Comments

Volume No.:44

Subpart M—Food Processing

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Subpart M—Food Processing

**U. S. Environmental Protection Agency
Office of Atmosphere Programs
Climate Change Division
Washington, D.C.**

FOREWORD

This document provides EPA's responses to public comments on EPA's Proposed Mandatory Greenhouse Gas Reporting Rule. EPA published a Notice of Proposed Rulemaking in the Federal Register on April 10, 2009 (74 FR 16448). EPA received comments on this proposed rule via mail, e-mail, facsimile, and at two public hearings held in Washington, DC and Sacramento, California in April 2009. Copies of all comments submitted are available at the EPA Docket Center Public Reading Room. Comments letters and transcripts of the public hearings are also available electronically through <http://www.regulations.gov> by searching Docket ID *EPA-HQ-OAR-2008-0508*.

Due to the size and scope of this rulemaking, EPA prepared this document in multiple volumes, with each volume focusing on a different broad subject area of the rule. This volume of the document provides EPA's responses to significant public comments received for 40 CFR Part 98, Subpart M—Food Processing.

Each volume provides the verbatim text of comments extracted from the original letter or public hearing transcript. For each comment, the name and affiliation of the commenter, the document control number (DCN) assigned to the comment letter, and the number of the comment excerpt is provided. In some cases the same comment excerpt was submitted by two or more commenters either by submittal of a form letter prepared by an organization or by the commenter incorporating by reference the comments in another comment letter. Rather than repeat these comment excerpts for each commenter, EPA has listed the comment excerpt only once and provided a list of all the commenters who submitted the same form letter or otherwise incorporated the comments by reference in table(s) at the end of each volume (as appropriate).

EPA's responses to comments are generally provided immediately following each comment excerpt. However, in instances where several commenters raised similar or related issues, EPA has grouped these comments together and provided a single response after the first comment excerpt in the group and referenced this response in the other comment excerpts. In some cases, EPA provided responses to specific comments or groups of similar comments in the preamble to the final rulemaking. Rather than repeating those responses in this document, EPA has referenced the preamble.

While every effort was made to include all significant comments related to 40 CFR Part 98, Subpart M—Food Processing in this volume, some comments inevitably overlap multiple subject areas. For comments that overlapped two or more subject areas, EPA assigned the comment to a single subject category based on an assessment of the principle subject of the comment. For this reason, EPA encourages the public to read the other volumes of this document with subject areas that may be relevant to 40 CFR Part 98, Subpart M—Food Processing.

Please note, EPA has made the final decision not to include Subpart M – Food Processing as a distinct subpart in the Mandatory Greenhouse Gas Reporting Rule. For more information, please See section III. Other Proposed Source Categories of today's preamble.

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SUBPART M—FOOD PROCESSING

1. DEFINITION OF SOURCE CATEGORY

Commenter Name: Jeffrey A. Sitler

Commenter Affiliation: University of Virginia (UVA)

Document Control Number: EPA-HQ-OAR-2008-0508-0675.1

Comment Excerpt Number: 8

Comment: The definition of “food processing facilities” leaves some room for question as to whether large kitchen or dining hall facilities fall into this category. Would a dining hall fall into this category or would that be considered food preparation rather than food processing? Preamble page 16507 specifically mentions “facilities in the meat and poultry, and fruit, vegetable, and juice processing industries.” This question may arise for locations such as colleges, prisons, and other facilities that serve a large number of meals and may also have other emissions sources totaling more than the 25,000 MTe CO₂ threshold.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today’s preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

Food processing facilities are specifically included in subpart II – Industrial Wastewater Treatment, and must report their industrial wastewater emissions if the facility meets the 25,000 ton CO₂e threshold when all applicable source categories are aggregated. The definition for food processing facility is included in subpart II, and has been significantly revised from that in the proposed rule.

The proposed definition was very broad, would have included sources for which EPA did not have supporting analysis, and multiple commenters requested additional clarity. For emissions from wastewater treatment, the industries included in the threshold analysis match the revised definition. The NAICS codes were added to clarify the coverage. The definition, as revised, does not include kitchens, dining halls, cafeterias, restaurants, or other establishments that prepare food for final consumption. Note that these establishments may still be required to report under other Subparts.

Commenter Name: Donald R. Schregardus

Commenter Affiliation: Department of the Navy, Department of Defense (DoD)

Document Control Number: EPA-HQ-OAR-2008-0508-0381.1

Comment Excerpt Number: 4

Comment: The definition of the food processing facilities provided in the source category rule language is very broad. It could be construed to require small sources such as a cafeteria in an administrative building to be included in reporting once a facility is subject to the rule. Also, the source category itself relies exclusively on the calculation methodologies from source categories as defined in other subparts, suggesting the Food Processing category is unnecessary. The

preamble for this source category describes a very large universe of sources: “Food processing facilities prepare raw ingredients for consumption by animals or humans.” However, Table M-1 and the Technical Support Document for this source category suggest that EPA’s intent is to limit applicability and reporting to only the largest meat and poultry, fruit, vegetable, and juice processing facilities based on the expectation that approximately 100 facilities of over 5,700 nationwide would exceed the 25,000 metric tons CO_{2e} or more per year of § 98.2(a)(2) and be subject to the rule as a food processor. There is no threshold in Subpart M that would preclude facilities that conduct some incidental food processing (such as institutional kitchens, cafeterias or restaurants) present at other types of sources from having to inventory these incidental activities for possible GHG emissions once the rule is found applicable for their facility. Upon further review of Subpart M, EPA sets very specific requirements for the GHG that must be reported for the source category. At § 98.132, EPA limits reporting to GHG from on-site stationary combustion (following the requirements of Subpart C), landfills (following the requirements of Subpart HH), and on-site wastewater treatment (following the requirements of subpart II). If the only reporting requirements for food processing facilities subject to the GHG reporting rule are these three source categories already covered in detail by the rule, we do not see the need for a separate food processing category. For example, a large meat packing plant that operates some combination of stationary combustion units, an industrial landfill, and wastewater treatment would need to determine its applicability to the rule under § 98.2(a)(2) or (3) even if food processing was not a specifically identified source category. We recommend to EPA to clarify the scope of the Food Processing source category language that solidifies EPA’s intent to address significant sources of GHG at a facility. Specifically exclude residential units from the Food Processing category. Set a capacity threshold for commercial-size units that are excluded from the source category. Alternatively, eliminate the source category and Subpart M since all of the GHG emissions that must be reported under the category are covered by source categories already defined in other subparts.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today’s preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO_{2e} by aggregating emissions from all applicable sources covered by the rule.

For more information on the definition of food processing facility, please see the response to comment EPA-HQ-OAR-2008-0508-0675.1, excerpt 8.

Commenter Name: Keith Epperson

Commenter Affiliation: American Feed Industry Association (AFIA)

Document Control Number: EPA-HQ-OAR-2008-0508-0399.1

Comment Excerpt Number: 1

Comment: EPA’s proposed rule specifically designates food processing facilities as a facility category to which GHG emission reporting requirements would apply. EPA defines a “food processing facility” as one which “prepares raw ingredients for consumption by animals or humans.” EPA further states that food processing facilities may have on-site wastewater treatment and/or onsite landfills for waste disposal. AFIA strongly believes that EPA’s definition of “food processing facility” is much too far-reaching, and incorrectly encompasses thousands of facilities that are engaged in grain handling, feed milling and grain processing operations. Such facilities have neither on-site wastewater treatment nor onsite landfills. Further, the majority of

such facilities have an aggregate maximum rated heat input capacity of stationary fuel combustion units of less than 30 million British thermal units (mmBtu) per hour. As such, we believe that EPA's arbitrary definition of a food processing facility is in direct conflict with one of the agency's stated objectives for the proposed rule – keeping the compliance and reporting burden to a minimum and excluding small emitters. This rule would require excessive reporting, and we believe the definition should be changed. We strongly recommend that EPA refocus its proposed definition of a “food processing facility” to those facilities whose operations fall within EPA-specified North American Industry Classification System (NAICS) categories that have GHG emission levels of known significance. If EPA desires additional criteria within its rule to ensure that facilities of interest are included within its “food processing facility” definition, we believe that onsite wastewater treatment and/or onsite landfill operations by a facility involved in food processing would serve as appropriate qualifiers to include such facilities within the “food processing facility” definition. Further, we recommend that EPA exclude the NAICS categories associated with facilities engaged in grain handling, feed milling and grain processing from its “food processing facility” definition.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

If neither onsite industrial landfills nor onsite industrial wastewater treatment exist at facilities engaged in grain handling, feed milling and grain processing operations, then subparts TT (Industrial Landfills) and II (Industrial Wastewater Treatment) do not apply.

For more information on the definition of food processing facility, please see the response to comments EPA-HQ-OAR-2008-0508-0675.1, excerpt 8. This definition, as revised, does not include grain handling, grain milling, or grain processing operations. Note that these operations may still be required to report under other Subparts.

Commenter Name: Steven M. Maruszewski

Commenter Affiliation: Pennsylvania State University (Penn State)

Document Control Number: EPA-HQ-OAR-2008-0508-0409.1

Comment Excerpt Number: 16

Comment: As part of its housing and foods operations, Penn State, by the very broad source category definition, could be a food processing facility. For reporting in this source category, it is required to report emissions from (Rule SS 98.132, p1074) "(a) Emissions of CO₂, N₂O, and CH₄ from on-site stationary combustion. You must follow the requirements of subpart C of this part. (b) Emissions of CH₄ from on-site landfills. You must follow the calculation procedures, monitoring and QA/QC methods, missing data procedures, reporting requirements, and recordkeeping requirements of subpart HH of this part. (c) Emissions of CH₄ from on-site wastewater treatment. You must follow the requirements of subpart II of this part." Penn State will already be reporting all stationary source combustion emissions. Penn State does not have an on-site landfill. Penn State does have an on-site domestic wastewater treatment facility that treats the University's wastewater as well as some flow from State College Borough. Subpart II, SS 98.350, defines this subcategory as industrial wastewater and it specifically excludes centralized domestic wastewater treatment plants. Thus, even though Penn State could be a Food Processing

facility as defined by the rule, the emissions reported would be the same as reporting under stationary sources. Being included in this source category only complicates the reporting with the requirement of reporting emissions separately by source category. This situation could also occur at a large manufacturing facility where the facility is required to report due to exceeding the stationary combustion emissions threshold and where the facility also provides cafeteria services to its employees. Penn State recommends that the definition for the Food Processing source category add the requirement that the food processed will be consumed off-site. This is similar to the same requirement in the Hydrogen Production source category definition where "A hydrogen production source category produces hydrogen gas that is consumed at sites other than where it is produced." (SS 98.160, p1100)

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

For more information on the definition of food processing facility, please see the response to comments EPA-HQ-OAR-2008-0508-0675.1, excerpt 8. This definition as revised, does not cover cafeteria services at a university such as Penn State. Note that universities may still be required to report under other Subparts.

Commenter Name: See Table 1

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 9

Comment: The proposed rule includes "miscellaneous use of carbonates." CO₂ is used within the meat industry for anesthetizing (CO₂ Stunning), modified atmosphere packaging, product crusting, and dry ice. These uses are not a significant source of emissions and should be excluded to reduce the emissions assessment and reporting burden for meat and poultry facilities.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

Subpart U – Miscellaneous Use of Carbonates of the rule signed in 2009, is specific in the carbonates covered and what is required to be reported for compliance. Please see section 98.210 of the final rule to determine if the carbonates used in the meat industry are required to be reported.

Commenter Name: See Table 1

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 8

Comment: Wastewater treatment is fundamental to the meat industry, but it is not likely to be a significant source of GHG emissions in the U.S. The vast majority of meat and poultry further processing facilities in the U.S. indirectly discharge wastewater to a municipal facility for wastewater treatment (POTW). Among the slaughter facilities in the U.S., only about 20% to 30% process wastewater onsite for direct discharge to waterbodies, and the remainder indirectly discharge to a POTW. At indirect discharge sites that send all wastewater to a POTW, only pretreatment operations occur. At direct discharge slaughter facilities, often a combination of aerobic and anaerobic treatments may be found at the same facility, and in a growing number of cases, these anaerobic treatment operations have been covered to capture biogas and reduce odor. Municipal treatment is excluded from the proposed rule because of its minimal contribution. Pursuant to EPA's "Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks," the contribution from food industry wastewater is projected to be less than that of municipal sources. This combination of factors should allow for exclusion of wastewater treatment from meat industry facilities.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

EPA disagrees with the commenter's assertion that industrial wastewater treatment should not be included in the rule because it would not be a significant source of greenhouse gas emissions. While many meat processing facilities discharge wastewater to municipal treatment systems for further processing, they often pretreat their wastewater anaerobically onsite to reduce the organic content. This on-site pretreatment has the potential to emit significant amounts of greenhouse gases which are appropriate to include under the reporting rule. EPA acknowledges that some food processors may use aerobic treatment or have installed controls to capture emissions from anaerobic treatment. The threshold in subpart II is based on emissions, not generation. These facilities would not need to report if their operations do not exceed the reporting threshold.

Domestic or municipal wastewater treatment plants are not included in the rule as the majority of those plants treat wastewater aerobically, and EPA's threshold analysis did not show that any facilities would meet the reporting threshold (for more information, please see Wastewater Treatment Technical Support Document (EPA-HQ-OAR-2008-0508-035)).

Commenter Name: Rasma I. Zvaners

Commenter Affiliation: American Bakers Association (ABA)

Document Control Number: EPA-HQ-OAR-2008-0508-0497.1

Comment Excerpt Number: 4

Comment: In light of the small contribution of bakeries to greenhouse gas emissions as a sector, and to avoid the burdensome impacts on bakeries and food prices that the rule (and even the substantial burden on individual baking facilities of determining whether and when the rule applies), EPA should expressly exempt the baking sector from regulation under the proposed rule and/or should determine that bakeries are not included within the food processing sector. EPA has ample discretion to exempt the baking industry from overly burdensome reporting requirements or to select an emissions threshold that does not inappropriately capture small and medium bakeries that operate at the margins of profitability. The principal authority underlying

EPA's Greenhouse Gases Reporting Rule, the 2008 Consolidated Appropriations Act, provides funding for EPA "to require mandatory reporting of greenhouse gas emissions above appropriate thresholds in all sectors of the economy of the United States." Consolidated Appropriations Act, 2008, Public Law 110-161, 121 Stat 1844, 2128 (2008).

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

The final rule requires bakeries that meet the applicable criteria in 40 CFR 98.2 to quantify CO₂ emissions from stationary combustion and other applicable sources in subparts C-TT, but does not require bakeries to quantify or report CO₂ emissions from the action of yeast in the baking process. With regard to stationary combustion units, the only other GHGs that must be reported are CH₄ and N₂O and the rule provides emission factors for these pollutants so that the calculation is straightforward.

For more information on the definition of food processing facility, please see the response to comments EPA-HQ-OAR-2008-0508-0675.1, excerpt 8. This definition, of food processing facility, as revised in subpart II, does not cover bakeries. Note that these bakeries may still be required to report under other Subparts.

Commenter Name: See Table 1

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 2

Comment: The proposed rule would require reporting of GHG emissions by sources in a covered category that make relatively significant contributions to that source category's overall GHG emissions. For the meat industry, EPA would require reporting of carbon dioxide (CO₂), methane (CH₄), and nitrous oxide (N₂O) emissions for each stationary combustion unit, CH₄ for each onsite landfill and for each onsite wastewater treatment system, and any other source category for which calculations methods are provided in the rule (74 Fed. Reg. 16462). EPA has elected not to include water vapor in the list of reportable GHGs. In that regard, EPA has properly identified the GHGs of importance to the meat industry.

Response: EPA thanks the commenter for their input. EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

Commenter Name: David Fairfield

Commenter Affiliation: National Grain and Feed Association (NGFA)

Document Control Number: EPA-HQ-OAR-2008-0508-0463.1

Comment Excerpt Number: 1

Comment: EPA’s proposed rule specifically designates food processing facilities as a facility category to which GHG emission reporting requirements apply. EPA defines a “food processing facility” as one which “prepares raw ingredients for consumption by animals or humans.” EPA further states that food processing facilities may have on-site wastewater treatment and/or on-site landfills for waste disposal. The NGFA strongly believes that EPA’s definition of “food processing facility” is far too expansive, and incorrectly encompasses thousands of facilities that are engaged in grain handling, feed milling and grain processing operations. Such facilities have neither on-site wastewater treatment nor onsite landfills. Further, the majority of such facilities have an aggregate maximum rated heat input capacity of stationary fuel combustion units of less than 30 million British thermal units (mmBtu) per hour. As such, we believe that EPA’s arbitrary definition of a food processing facility is in direct conflict with one of the agency’s stated objectives for the proposed rule – keeping the compliance and reporting burden to a minimum and excluding small emitters. We strongly recommend that EPA refocus its proposed definition of a “food processing facility” to those facilities whose operations fall within EPA-specified North American Industry Classification System (NAICS) categories that have GHG emission levels of known significance. If EPA desires additional criteria within its rule to ensure that facilities of interest are included within its “food processing facility” definition, we believe that the operations of on-site wastewater treatment and/or on-site landfill by a facility involved in food processing possibly could serve as appropriate qualifiers for such facilities to be included within the “food processing facility” definition. Further, the NGFA strongly recommends that EPA exclude the NAICS categories associated with facilities engaged in grain handling, feed milling and grain processing from its “food processing facility” definition. These categories include NAICS codes 311111, 311119, 311211, 424510, and 493130.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today’s preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

If neither onsite industrial landfills nor onsite industrial wastewater treatment exist at facilities engaged in grain handling, feed milling and grain processing operations, then subparts TT (Industrial Landfills) and II (Industrial Wastewater Treatment) do not apply.

For more information on the definition of food processing facility, please see the response to comments EPA-HQ-OAR-2008-0508-0675.1, excerpt 8. This definition, as revised, does not include grain handling, grain milling, or grain processing operations. Note that these operations may still be required to report under other Subparts.

Commenter Name: Rasma I. Zvaners

Commenter Affiliation: American Bakers Association (ABA)

Document Control Number: EPA-HQ-OAR-2008-0508-0497.1

Comment Excerpt Number: 1

Comment: Our members have a critical interest in the development of a carbon reduction program, particularly as it may impact their businesses. According to EPA’s own calculations, the food industry is a relatively insignificant portion of the targeted sources for regulations aimed at reducing climate change impact. In its “Technical Support Document for Food Processing Facilities”, EPA estimates that methane emissions from wastewater treatment and landfills in the

food processing source category totaled only 10.9 million metric tons CO₂e per year. Taking the total nationwide net (sources and sinks) CO₂e emissions in 2007 of 6,087.5 million MT CO₂e, one can calculate based on the EPA Technical Support Document that emissions for the food processing industry constituted less than two hundreds of one percent (merely 0.179%) of net total emissions. Emissions from the baking sector specifically are in turn only a fraction of overall emissions from the food processing industry sector. We recognize that this figure does not quantify the emissions from on-site fuel combustion for food processing facilities; however, under recent “cap-and-trade” proposals in Congress, emissions from fossil fuels such as natural gas will be covered “upstream” by fuel producers and importers and will not be directly attributable to the baking sector, although bakeries will certainly pay the price of greenhouse gas reductions in the form of higher energy costs passed through to them as energy consumers. To further elaborate this point, take the example of a typical medium-size bakery with 100 employees. The bakery produces buns and rolls. The bakery operates three ovens and two boilers. Refrigerant is used to cool the mixers, and the plant features a small wastewater lagoon. This calculation is based on 2008 when the bakery operated three shifts five days a week. The bakery has ovens 1-3 Oven 1, at 4 MMBTU and Oven 2, 5 MMBTU Oven 3, 6 MMBTU; and Boiler 1, 4MMBTU; and Boiler 2, 4MMBTU. This equipment does not run full-on and the bakery only used 31,973 thousand cubic feet (MCF) of natural gas. Multiplying 31,973 MCF times the conversion factor 10.25 and entering 327,723 therms yields carbon equivalents of 1,974 tons. The carbon equivalent of the electricity generated is 3,307 tons. Refrigerant loss is 500 lbs R-404A and equals carbon equivalents of 890 tons. The bakery sends 3,650,000 gallons of wastewater a year to a small lagoon for treatment. The lagoon is not aerated so the methane from the biological activity is released. The methane carbon equivalent is 200 tons. This example footprint is as follows: 1. Burning Natural Gas – 1 ton 2. Electricity – 3,307 tons 3. Refrigerant loss – 890 tons 4. Methane – 200 tons This bakery’s carbon footprint is 6,371 tons. If the operation had higher production the carbon footprint may have been closer to 10,000 [Footnote: Got Greenhouse Gas? A Bakery's Carbon Footprint, Milling & Baking News, May 5, 2009]. In light of this example, that is typical of the estimated contribution from the food industry towards greenhouse gas emissions, ABA emphasizes the need for pragmatic regulatory solutions that will avoid negatively impacting medium and smaller size businesses, such as bakeries.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today’s preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

With regard to the reporting requirements for bakeries, please see the response to comment EPA-HQ-OAR-2008-0508-0497.1, excerpt 4 of this document.

Commenter Name: See Table 1

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 7

Comment: Within the meat-processing source category, EPA identified emissions from stationary combustion units, onsite landfills, and onsite wastewater treatment systems as the key emission sources these facilities should consider when determining if reporting thresholds are exceeded (74 Fed. Reg. 16631). Stationary fuel combustion sources are common to the meat

industry, primarily boilers for heating water for scalding and other carcass preparation, USDA-required carcass, equipment and facility cleaning and decontamination, steam production, and process heaters for further processing of retail meat products and byproduct rendering. However, onsite landfills at meat processing facilities are rare.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

If an onsite industrial landfill does not meet the requirements specified in Subpart TT, or is not present at a meat processing facility, then Subpart TT does not apply.

Commenter Name: Rasma I. Zvaners

Commenter Affiliation: American Bakers Association (ABA)

Document Control Number: EPA-HQ-OAR-2008-0508-0497.1

Comment Excerpt Number: 14

Comment: EPA's proposed Mandatory Greenhouse Gases Reporting Rule is scheduled to start monitoring requirements on January 1, 2010 – merely 6 months away – with the first report due on March 31, 2011. ABA is concerned about the limited time frame for implementing this program at a smaller facility. The appropriations language mandating EPA's proposal was signed in December 2007 and EPA was to propose the rule by September 2008. The proposed rule was published in the Federal Register on April 10, 2009, 6 months after the deadline. If included as part of the mandatory reporting regime, small and large businesses will need additional time to implement a program at their facilities, to hire engineers and consultants, and to find the extra operating funds necessary to comply with another EPA program. For example, at some larger bakeries there may be the need to engineering assessments, vendor selection and budget approvals. In some cases these activities need at least an additional 15 month lead time. In particular, many sources in the baking sector are anticipated to be below the reporting threshold; however, even facilities that are not required to report will need to calculate their emissions (with the attendant costs and diversion of resources) in order to determine that they are not covered. Many small businesses will not be able to complete this assessment by 2010, and bakeries in particular may have emissions that are difficult to quantify such as CO₂ emissions from the baking process. EPA should extend the first monitoring year to 2011. In the alternative, EPA should consider allowing those sources that would be reporting greenhouse gas emissions for the first time additional time to meet the requirements and submit their first report. Alternatively, reporting of 2010 emissions could be considered "transitional" with incomplete reporting accepted. For example, a facility may be allowed to report only emissions of CO₂ in 2010, instead of the full suite of greenhouse gas emissions. Some larger facilities that are impacted by the proposed rule may be in a position to begin monitoring requirements at a faster pace than medium and small entities.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

See today's preamble section II B Changes to the Reporting Schedule.

With regard to the reporting requirements for bakeries, please see the response to comment EPA-HQ-OAR-2008-0508-0497.1, excerpt 4.

Commenter Name: Rasma I. Zvaners

Commenter Affiliation: American Bakers Association (ABA)

Document Control Number: EPA-HQ-OAR-2008-0508-0497.1

Comment Excerpt Number: 6

Comment: EPA should proceed carefully when designing a greenhouse gas program, including the Mandatory Reporting of Greenhouse Gases proposal, so as to not overly burden the food processing industry, and thereby impose price burdens on the Nation's food supply at a time when the economy is already negatively impacting businesses' livelihood. For example, if a bakery with emissions near the 25,000 tons per year were a "covered facility" under a "cap-and-trade" proposal, that business would have to pay \$500,000 per year in carbon fees for emissions allowances, even if allowances were priced at only \$20/ton. This is a significant impact to a small or medium size business.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

With regard to the reporting requirements for bakeries, please see the response to comment EPA-HQ-OAR-2008-0508-0497.1, excerpt 4. In developing the final rule, EPA gathered additional data on costs and re-examined the costs in each sector, in addition to considering ways in which to reduce the burden of the rule. More details on costs for individual source categories can be found in the Regulatory Impact Analysis that accompanies this rule, and response to comments received on the economic impacts of the rule found in Section VII of the preamble signed on September 22, 2009.

Consideration of the costs and economic impacts of hypothetical future environmental policies is beyond the scope of this rulemaking.

2. REPORTING THRESHOLD

Commenter Name: Dean C. DeLorey

Commenter Affiliation: Beet Sugar Development Foundation (BSDF) Environmental Committee

Document Control Number: EPA-HQ-OAR-2008-0508-0559.1

Comment Excerpt Number: 1

Comment: The examples of affected facilities (Table 1) and source categories (Table 2) include multiple overlapping categories and subparts that may apply to a source. However, the

description fails to explain how the categories and subparts may apply to a source like a beet sugar manufacturer that uses processes that fit in multiple categories.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

For more information on the definition of food processing facility, please see the response to comments EPA-HQ-OAR-2008-0508-0675.1, excerpt 8. This definition, as revised, does not include beet sugar manufacturers. Note that beet sugar manufacturers may still be required to report under other Subparts.

Commenter Name: See Table 2

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 12

Comment: The meat industry in general contributes only minimally to total U.S. GHG emissions. To get a better understanding of this, the Food Industry Environmental Council (FIEC) examined GHG emissions from the food industry. EPA estimated that the CH₄ emissions from wastewater treatment and landfills of the entire food processing source category total 10.9 million metric tons CO₂e per year. EPA did not quantify the emissions from on-site fuel combustion. Taking the total nationwide new (sources and sinks) CO₂e emissions in 2007 of 6,087.5 million MT CO₂e, FIEC calculated that the TSD-based emissions were 0.179% of net U.S. total GHG emissions. Using 2006 inventory figures, FIEC calculated food industry emissions of 0.181% of net U.S. total GHG emissions. Because the meat industry is a small subset of the total food processing industry, because 80% of the meat industry discharges its wastewater to POTWs, because aerobic treatment is a large part of the industry's wastewater treatment, and given that a growing number of existing meat industry anaerobic wastewater treatment facilities are covered, the meat industry is a small GHG emitter, which EPA sought to exclude from this rule. Accordingly, the rule should provide the following: 1. No reporting for facilities that emit less than 50,000 mtpy; 2. Annual reporting for facilities that emit greater than 50,000 mtpy (for two to three years as described below); and 3. Reporting significant changes for facilities that emit 25,000 to 50,000 mtpy, if those changes would increase emissions to greater than 50,000 mtpy.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

EPA disagrees with the commenter that industrial wastewater treatment should not be included in the rule because it would not be a significant source of greenhouse gas emissions. Please see the response to EPA-HQ-OAR-2008-0508-0440.1, excerpt 8 of this document for further discussion.

While food processing facilities may not be large sources of GHG emissions, and are not included as a separate subcategory, their inclusion is important to the goal of the reporting rule if they are otherwise subject to reporting requirements. See the preamble signed in 2009 (74 FR (page 56317)) for response to comments on de minimus exclusions.

Commenter Name: See Table 2

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 11

Comment: EPA's published a meat and poultry processing guide to help facilities determine if they will fall above the 25,000 mtpy threshold. EPA used Office of Water demographics collected for the 2004 effluent limitations guideline promulgation to estimate the relative plant size that is likely to emit more than 25,000 mtpy from wastewater processing alone, but did not consider stationary combustion units. EPA estimated that "only a few facilities" that process annually more than 292 million pounds of meat or 232 million pounds of poultry would likely be subject to the rule (EPA, Table 2, Technical Support Document for Food Processing Facilities, p. 5, 2009). However, EPA's definition of "large" meat and poultry production volumes are incorrect. In fact, large meat and poultry facilities today typically process: 1. Beef = 325 head/hr x 16 hrs/day x 1250 lbs/head live weight x 5 days x 52 wks = 1.69 billion pounds per year [Footnote: Published carcass yields for beef and pork are 62% and 76%. Tyson Foods, Inc. Fiscal 2008 Fact Book, 32 pp.] 2. Pork = 1000 head/hr x 16 hrs/day x 280 lbs/head live weight x 5 days x 52 wks = 1.16 billion pounds per year 3. Chicken = 1.3 million birds/wk x 7.5 lbs/bird live weight x 52 wks = 507 million pounds per year. [Footnote: Published carcass yields for broiler chickens range from 73-76%. Kokoszynski D, Bernacki Z. 2008. Comparison of slaughter yield and carcass tissue composition in broiler chickens of various compositions. J. Central European Ag. 9 (1), 11-16. <http://www.agr.hr/jcea/issues/jcea9-1/pdf/jcea912.pdf>] Using EPA's projections a majority of AMI member company plants – large, medium, and perhaps some small plants too – process amounts of meat or poultry that would result in anaerobic wastewater treatment GHG emissions levels that exceed the proposed 25,000 mtpy threshold. When stationary combustion unit emissions are added, is it really possible that the majority of facilities in the meat industry will be required to report GHG emissions? Either EPA's numbers are incorrect for the pounds of meat and poultry processed that would exceed 25,000 mtpy, or the 25,000 mtpy threshold itself is too low, or both.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

Food processing facilities are specifically included and defined in subpart II – Industrial Wastewater Treatment which is being finalized with this regulatory action. For more information on the definition of food processing facility, please see the response to comments EPA-HQ-OAR-2008-0508-0675.1, excerpt 8. EPA revised the TSD for Industrial Wastewater, and in the course of doing so reevaluated the number of facilities that may be required to report their emissions from industrial wastewater under the rule. For more information, please see Industrial Wastewater Treatment Technical Support Document (June 2010) (see docket EPA-HQ-OAR-2008-0508 for a copy of this document).

Commenter Name: See Table 2

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 10

Comment: The proposed rule identifies 25,000 mtpy CO₂ equivalency (CO₂e) as the total annual GHG emissions threshold for required reporting, aggregated for all the source categories and for all supply categories for which emission calculation methods are provided⁶ (74 Fed. Reg. 16462). Although the proposal asserts that this threshold would exclude small emitters, thereby reducing the reporting burden and providing the most valid data for future policy and regulatory decisions, (74 Fed. Reg. 16456), it is uncertain that this benefit will ensue.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

See the preamble signed in 2009 (74 FR (page 56317)) for response to comments on de minimus exclusions.

Commenter Name: Rechelle Hollowaty

Commenter Affiliation: Tyson Foods, Inc.

Document Control Number: EPA-HQ-OAR-2008-0508-0379.1

Comment Excerpt Number: 4

Comment: Tyson respectfully requests EPA to reconsider the full impact of the 25,000 tpy GHG reporting threshold on meat processors. EPA claims only a few facilities within the meat processors will be affected by this regulation at this threshold. Tyson disagrees entirely with EPA's approach to estimating the potential number of affected facilities by the annual amount of processed meat or poultry. Within Tyson alone there will be 20+ facilities affected for the long term of which all of 20+ facilities are over the EPA's volume estimates. While many of companies have similar processes to Tyson, we believe there will be much greater impact within the industrial sector than initially estimated by EPA to the extent that most of the meat processing facilities in the US will be reporting emissions. Many of the meat processing companies will have to rely on outside consultants to help coordinate and compile the data and assemble the reports. As with all regulatory requirements there will be a financial impact to the company and therefore at some point that financial impact will trickle down to the bottom of the "food chain" to the consumer.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

With regard to the number of meat processors expected to be required to report emissions under the rule, please see the response to comment EPA-HQ-OAR-2008-0508-0440.1, excerpt 11.

Commenter Name: See Table 2

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 1

Comment: AMI's comments demonstrate that the meat industry as a whole is an extremely small component of U.S. GHG emissions, that EPA's concept of a "large" meat or poultry processing plant is incorrect, and that this incorrect concept has led EPA to significantly underestimate the number of meat and poultry processing facilities (the "meat industry") that will be affected by these reporting requirements.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

With regard to the number of meat processors expected to be required to report emissions under the rule, please see the response to EPA-HQ-OAR-2008-0508-0440.1, excerpt 11.

Commenter Name: Robert Garfield

Commenter Affiliation: American Frozen Food Institute (AFFI)

Document Control Number: EPA-HQ-OAR-2008-0508-0402.1

Comment Excerpt Number: 2

Comment: AFFI believes that for source categories contributing relatively insignificant amounts of GHG emissions (i.e., below 0.5% of nationwide CO₂e emissions), EPA should use alternative, conservative reporting thresholds that are tied to the status of a source category facility as a Title V major source rather than the capacity of particular facilities to emit GHGs. AFFI respectfully recommends this approach for three reasons. First, AFFI estimates that excluding non-Title V facilities from GHG reporting will not adversely affect the quality or reliability of EPA's GHG collection efforts. Even if the reporting requirements excluded every single food processing facility—an overly- conservative assumption given that at least some food processing facilities fall under Title V—EPA would miss detailed emissions data only from some 0.161% of nationwide GHG emissions [Footnote: Using AP-42 emission factors, a natural-gas-fired boiler would need to have a capacity of some 171 MMBtu/hr to emit 100 tons per year NO_x, while at the same time emitting only 78,000 MT CO₂e /yr. Using the Title V threshold approach, the 30 MMBtu/hr stationary fuel combustion threshold would need to be altered for qualifying source categories]. And reporting under the rule of natural gas deliveries by local distribution companies would provide EPA with a separate source of data from which to calculate GHG emissions from the combustion of natural gas. Second, major sources under Title V are already accustomed to managing sophisticated monitoring, recordkeeping, and reporting requirements. As a result, those facilities already have internal QA/QC procedures in place, have designated representatives responsible for compliance, and have staff that are well-qualified to include GHG monitoring, recordkeeping, and reporting in the normal operation of the facility. In short, Title V facilities

already have the foundations in place to support the additional burden of GHG reporting. Last, the burden of monitoring, recordkeeping, and reporting on small-to-medium-sized facilities unaccustomed to detailed federal environmental compliance outweighs the minor benefits achieved by collecting detailed GHG emissions data from such an insignificant source category. In recent testimony to Congress, Administrator Jackson has reiterated that EPA's GHG policies are not designed to adversely impact smaller businesses. Limiting the scope of the proposed rule as we have suggested is a step towards avoiding those adverse impacts. As well, most of these food processing facilities use efficient natural gas as the primary fuel source to meet FDA and USDA processing requirements for safe and wholesome food products. Taken together, including non-Title V sources in a source category that contributes less than 0.5% to nationwide GHG emissions appears to be contrary to EPA's stated goal of "[b]alanc[ing] the rule coverage to maximize the amount of emissions reported while excluding small emitters," and may be contrary to Congress' directive to require reporting of GHG emissions "above appropriate thresholds." [Footnote: Consolidated Appropriations Act, 2008, Pub. L. 110-161, 121 Stat. 1844, 2128 (2008). AFFI also notes that EPA has not estimated the incremental GHG emissions to be reported at different threshold levels, making it very difficult to determine whether the 25,000 MT CO₂e /yr threshold for the food processing source category is reasonable. Compare Table M-1 with Table N-1, 74 Fed. Reg. 16,507–508.]

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

See the preamble signed in 2009 for the response on selection of the threshold. Regarding the comment that only Title V sources should report emissions, see the response to comment from the rule signed in 2009 EPA-HQ-OAR-2008-0508-0526.1, excerpt 6 in Volume 2.

Commenter Name: Robert R. Hirst

Commenter Affiliation: International Bottled Water Association (IBWA)

Document Control Number: EPA-HQ-OAR-2008-0508-1143.1

Comment Excerpt Number: 1

Comment: IBWA believes that for source categories contributing relatively insignificant amounts of GHG emissions, such as the bottled water industry (i.e., below 0.5% of nationwide CO₂e emissions), EPA should use alternative, conservative reporting thresholds that are tied to the status of a source category facility as a Title V major source rather than the capacity of particular facilities to emit GHGs. IBWA estimates that excluding non-Title V facilities from GHG reporting will not negatively affect the quality or reliability of EPA's GHG collection efforts. Even if the reporting requirements excluded every type of food processing facility, including those associated with the manufacturing and dispersal of bottled water—an overly-conservative assumption given that at least some food processing facilities fall under Title V—EPA would miss detailed emissions data only from some 0.161% of nationwide GHG emissions. Reporting under the rule of natural gas deliveries by local distribution companies would provide EPA with a separate source of data from which to calculate GHG emissions from the combustion of natural gas. Title V facilities already have the foundations in place to support the added responsibility of GHG reporting. Major sources under Title V are adapted to managing sophisticated monitoring, recordkeeping, and reporting requirements. These facilities have

adopted internal QA/QC procedures, have designated representatives responsible for compliance, and are outfitted with well-qualified staff to include GHG monitoring, recordkeeping, and reporting in the normal operation of the facility.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

See the preamble signed on September 22, 2009 for the response on selection of the threshold. Regarding the comment that only Title V sources should report emissions, see the response to comment from the rule signed in 2009 EPA-HQ-OAR-2008-0508-0526.1, excerpt 6 in Volume 2 of this document.

Commenter Name: Rasma I. Zvaners

Commenter Affiliation: American Bakers Association (ABA)

Document Control Number: EPA-HQ-OAR-2008-0508-0497.1

Comment Excerpt Number: 3

Comment: EPA should consider further streamlining the applicability by providing a de minimis exemption for any food processing facility (with emissions only from combustion) which has less than 30 million Btu burner capacity.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

With regard to de minimis reporting, please see the preamble signed in 2009 and the response to comment from the rule signed 2009 EPA-HQ-OAR-2008-0508-0374.1, excerpt 7 in Volume 2.

Commenter Name: Robert Garfield

Commenter Affiliation: American Frozen Food Institute (AFFI)

Document Control Number: EPA-HQ-OAR-2008-0508-0402.1

Comment Excerpt Number: 1

Comment: AFFI respectfully recommends that for those GHG source categories contributing less than 0.5% to nationwide GHG emissions, EPA require reporting only from facilities in the source category that would otherwise qualify as a major source under Title V of the Clean Air Act. The bases for our recommendation are set forth in more detail below. The GHG Reporting Rule identifies food processing as a source category that emits GHGs from landfill operations, wastewater treatment systems, and stationary fuel combustion and for which EPA has set a facility-wide GHG reporting threshold of 25,000 MT CO₂e /yr. EPA has estimated total GHG emissions from this source category (excluding stationary fuel combustion) of some 10.9 MMT CO₂ which equals 0.152% of total 2007 nationwide CO₂e emissions. Including a proportionate share of stationary fuel combustion GHG emissions [footnote: That is, 0.152% of total estimated

stationary fuel combustion emissions of 410 MMT CO₂e, see 74 Fed. Reg. at 16,482, or 0.63 MMT CO₂e.] in the food processing source category yields total estimated emissions of 11.53 MMT CO₂e, or 0.161% of total 2007 CO₂e emissions—an undeniably insignificant contribution to overall emissions.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

EPA is not excluding source categories from reporting based on the specific percent of nationwide GHG emissions contributed by the source category as a whole. See the preamble signed in 2009 and the response to comment EPA-HQ-OAR-2008-0508-0440.1 excerpt 8.

Commenter Name: Stewart T. Leeth

Commenter Affiliation: Smithfield Foods, Inc.

Document Control Number: EPA-HQ-OAR-2008-0508-0553.1

Comment Excerpt Number: 9

Comment: In the Proposed Rule, EPA states that "POTWs are not included in this proposal because, as described in the Wastewater Treatment TSD (EPA-HQ-OAR-2008-0508-035), emissions from POTWs do not exceed the threshold considered under this rule." (74 Fed. Reg. at 16,560). However, EPA's Inventory of Greenhouse Gas Emissions depicts POTWs as a larger contributor of CO₂e than industrial wastewater treatment. (EPA, DRAFT Inventory of US Greenhouse Gas Emissions and Sinks: 1990-2007, Ch. 8, Table 8-6 (April 15, 2009)). Food processing is an even smaller subset of the industrial category. As AMI observes in its comments, 2007 CO₂e emissions in the food industry amounts to 0.179% of net US total GHG emissions. Based on EPA's own reasoning for excluding POTWs from the Proposed Rule, there is absolutely no basis to include food processing.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III, Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

EPA has not required domestic or municipal treatment systems to report emissions because, as described in the Wastewater Treatment TSD (EPA-HQ-OAR-2008-0508-035), emissions from domestic or municipal treatment systems do not exceed the thresholds considered under this rule. Due to the fact that most centralized wastewater treatment plants use aerobic treatment, and those that use anaerobic systems are small, EPA does not expect any to meet the 25,000 metric ton CO₂e reporting threshold. As a result, EPA has not required POTWs to report emissions.

Commenter Name: Robert R. Hirst

Commenter Affiliation: International Bottled Water Association (IBWA)

Document Control Number: EPA-HQ-OAR-2008-0508-1143.1

Comment Excerpt Number: 2

Comment: The burden of monitoring, recordkeeping, and reporting on small-to-medium-sized facilities unaccustomed to detailed federal environmental compliance outweighs the minor benefits achieved by collecting detailed GHG emissions data from such an insignificant source category. In recent testimony to Congress, Administrator Jackson has reiterated that EPA’s GHG policies are not designed to adversely impact smaller businesses. Limiting the scope of the proposed rule as we have suggested is a step towards avoiding those adverse impacts. Taken together, including non-Title V sources in a source category that contributes less than 0.5% to nationwide GHG emissions appears to be contrary to EPA’s stated goal of “[b]alanc[ing] the rule coverage to maximize the amount of emissions reported while excluding small emitters,” and may be contrary to Congress’ directive to require reporting of GHG emissions “above appropriate thresholds.”[Footnote: Consolidated Appropriations Act, 2008, Pub. L. 110-161, 121 Stat. 1844, 2128 (2008). AFFI also notes that EPA has not estimated the incremental GHG emissions to be reported at different threshold levels, making it very difficult to determine whether the 25,000 MTCO₂e/yr threshold for the food processing source category is reasonable. Compare Table M-1 with Table N-1, 74 Fed. Reg. 16,507–508.]

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III, Other Proposed Source Categories of today’s preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

Please see the response to comment from the rule signed in 2009 EPA-HQ-OAR-2008-0508-0609.1, excerpt 2 in Volume 10 for EPA’s approach to reducing burdens on small businesses.

Commenter Name: Dean C. DeLorey

Commenter Affiliation: Beet Sugar Development Foundation (BSDF) Environmental Committee

Document Control Number: EPA-HQ-OAR-2008-0508-0559.1

Comment Excerpt Number: 20

Comment: We encourage the US EPA to further consider impacts to small to medium companies and American farmers in promulgating this GHG inventory rule. Although all US beet sugar processing facilities anticipate being required to participate the GHG inventory, the additional resources required to comply with reporting rules will significantly impact our typically nearly a century old facilities that have to compete in a commodity industry.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today’s preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

Please see the response to comment from the rule signed in 2009 EPA-HQ-OAR-2008-0508-0609.1, excerpt 2 in Volume 10 of this document for EPA’s approach to reducing burdens on small businesses.

3. GHGS TO REPORT

Commenter Name: Mike Redman

Commenter Affiliation: The American Beverage Association (ABA)

Document Control Number: EPA-HQ-OAR-2008-0508-0582

Comment Excerpt Number: 1

Comment: Manufacturers of carbonated beverages use carbon dioxide as an ingredient in the beverage manufacturing process. In the US, all of the carbon dioxide used in beverage manufacturing originates as a byproduct of other industrial processes (such as fermentation, etc.) from other industries. No new or virgin carbon dioxide is manufactured for use in carbonated beverages. Since all of the carbon dioxide used in beverage manufacturing is a byproduct of other industrial processes, the carbon dioxide used as an ingredient in carbonated beverage manufacturing does not represent a new source of a greenhouse gas. Although ABA recognizes that carbon dioxide emissions from beverage manufacturing facilities represents a minute portion of overall greenhouse gas releases, reporting carbon dioxide emissions from carbonated beverage manufacturing would not reflect the “accurate and timely” information that EPA has outlined as its goal in the preamble to the proposal. ABA urges EPA to consider the unique circumstances described above and address this issue in any future steps during this rulemaking process. Carbon dioxide which is both a byproduct of other industrial processes and an ingredient in foods and beverages should not be subject to greenhouse gas reporting as such reporting would be both misleading and inaccurate.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today’s preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

Under subpart PP (Suppliers of CO₂), industrial facilities that capture a CO₂ stream and supply it for commercial application must report quantities captured and supplied. The facility that purchases and uses the captured CO₂ would have to report facility direct CO₂ emissions only if the facility contains a source category covered by the rule and there are methodologies in the rule for reporting CO₂ process emissions for the specific industrial process.

4. SELECTION OF PROPOSED GHG EMISSIONS CALCULATION AND MONITORING METHODS

Commenter Name: See Table 1

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 13

Comment: EPA does not require continuous emissions monitoring of meat industry combustion devices, but provides options for calculating GHG emissions. In its proposal, EPA agrees that indirect estimation is more cost-effective and reliable.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III, Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

The final subpart C for stationary fuel combustion retains the tiered approach that allows specified calculation methods rather than CEMS for many combustion units.

5. MONITORING AND QA/QC REQUIREMENTS

Commenter Name: See Table 1

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 18

Comment: EPA apparently considered sunseting the reporting requirement after three years but rejected the option because the agency concluded that such an approach would unnecessarily limit the debate about potential policy options to address climate change (74 Fed. Reg. 16478). There is no substantive reason to conclude, however, that the climate change debate would be affected in any manner if reporting was limited to two or three years. Meat processors should be required to report for two or three years only, and thereafter report when process changes occur or other considerations significantly change emissions estimations. Such a policy exists for continuous emissions reporting by animal feeding operations of hazardous air pollutants under EPA regulations for the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Reporting emissions for two to three years should provide EPA with sufficient data on which to make informed policy decisions regarding climate change – the purported goal of the rule. If two or three years proves to be insufficient, EPA could take action to extend the rule. EPA should, however, have a sunset plan for this information gathering tool because once regulatory programs are established, they are very difficult to end for political reasons unrelated to their continued relevance.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

For the response to the comment regarding inclusion of sunset provisions, see the response to comment for the rule signed in 2009 EPA-HQ-OAR-2008-0508-0712.1, excerpt 7 in Volume 5 of this document.

Commenter Name: See Table 1

Commenter Affiliation:

Document Control Number: EPA-HQ-OAR-2008-0508-0440.1

Comment Excerpt Number: 17

Comment: EPA concluded that annual emissions reporting is sufficient for policy development and is consistent with other existing mandatory and voluntary GHG reporting programs at the State and Federal levels. The agency cautioned, however, that as future policies develop it may be necessary to reconsider the reporting frequency and require more or less frequent reporting (e.g., quarterly reporting under future programs or policy initiatives, particularly if regulatory in nature such as a cap-and-trade program). To that end, for the meat industry, annual reporting is more than adequate for a period that would depend on the emissions level.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

EPA has retained annual reporting in the final rule.

Commenter Name: Rechelle Hollowaty

Commenter Affiliation: Tyson Foods, Inc.

Document Control Number: EPA-HQ-OAR-2008-0508-0379.1

Comment Excerpt Number: 5

Comment: We strongly urge EPA to rethink their position for the Meat Processing Industry and allow a much slower transition into reporting as well as limit the number of years from 2-3 years of required reporting. Thereafter, a facility should only have report if there are significant changes made to that location dramatically increasing the GHG emissions.

Response: EPA has made the final decision not to include Subpart M as a distinct subpart in the Mandatory Reporting of Greenhouse Gases Rule. See section III. Other Proposed Source Categories of today's preamble for further explanation. Note, food processing facilities will still be required to report if they meet the threshold of 25,000 tons CO₂e by aggregating emissions from all applicable sources covered by the rule.

For the response to the comment on reducing the frequency of reporting, see the response to comment for the rule signed in 2009 EPA-HQ-OAR-2008-0508-0433.1, excerpt 3 in Volume 12 of this document.

EPA decided not to phase in reporting for different source categories as recommended by the commenter because comprehensive data are critical to the timely development of future GHG policy and regulatory programs. As explained in Section II.G of the preamble signed on September 22, 2009, Congress requested EPA to develop this reporting program on an expedited schedule, and Congressional inquiries along with public comments reinforce that data collection for calendar year 2010 is a priority. For more information on why EPA needs to collect data in 2010, see Section I.G of the preamble signed on September 22, 2009. However, EPA agrees that some facilities may need additional time to install monitoring devices and the final rule includes provisions allowing best available data to be used during the first quarter of 2010. For more information on the use of best available data, see Section II.G of the preamble signed on September 22, 2009.

Table 1

COMMENTS	AFFILIATE	DCN
Mark Dopp	American Meat Institute (AMI)	EPA-HQ-OAR-2008-0508-0440.1
Stewart T. Leeth	Smithfield Foods, Inc.	EPA-HQ-OAR-2008-0508-0553

Table 2

COMMENTS	AFFILIATE	DCN
Mark Dopp	American Meat Institute (AMI)	EPA-HQ-OAR-2008-0508-0440.1
Stewart T. Leeth	Smithfield Foods, Inc.	EPA-HQ-OAR-2008-0508-0553