



**To:** Jennifer Bohman  
Climate Change Division  
Office of Atmospheric Programs (MC-6207A)  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW,  
Washington, DC 20460

**Date:** July 17, 2023

**Re:** Request for extension of the comment period for Docket No. EPA-HQ-OAR-2019-0424

Dear Ms. Bohman:

The American Chemistry Council (ACC), the American Forest and Paper Association, the American Wood Council, and the Industrial Energy Consumers of America, (collectively, “the Requestors”) respectfully request a minimum 60-day extension to the comment period for the supplemental proposal governing *Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule*.<sup>1</sup> The Requestors represent heavily-regulated manufacturers and industrial energy consumers across several industrial sectors, reflecting diverse business, geographic, operational, and value chain footprints. As discussed below, the supplemental proposal raises significant and diverse issues of law and policy; overlaps with multiple other policy proceedings; and could have significant business implications for the Requestors’ members and their value chain partners. Absent the requested extension, Requestors and other stakeholders will be denied the time needed to review the rule and related documents in other interrelated proceedings, confer with their affected value chain partners, and provide thoughtful integrated comments.

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<sup>1</sup> 88 Fed. Reg. 32852 (May 22, 2023)(2023 GHGRP Proposal).



## A. The Requestors

ACC represents a diverse set of companies engaged in the business of chemistry, an innovative, \$517 billion enterprise,<sup>2</sup> driving innovation through investments in research and development (R&D) that exceed \$11 billion annually, providing 537,000 skilled, good-paying jobs—plus over 4.1 million related jobs. The business of chemistry operates by creating complex chemical reactions requiring large amounts of process heat and power, demands that will only increase as manufacturers explore emission abatement opportunities like process electrification, industrial carbon capture, electrolysis, and utilization. As a result, the energy sourcing and procurement process is complex, and decisions made regarding negotiating and sourcing offsite energy inputs are highly sensitive business information.<sup>3</sup>

The American Forest & Paper Association (AF&PA) serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recyclable resources, generate renewable bioenergy, and are committed to continuous improvement through the industry's sustainability initiative — Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future. The forest products industry accounts for approximately 5% of the total U.S. manufacturing GDP, manufactures about \$350 billion in products annually and employs about 925,000 people. The industry meets a payroll of about \$65 billion annually and is among the top 10 manufacturing sector employers in 43 states.

The American Wood Council (AWC) is the voice of North American wood products manufacturing, representing over 80 percent of an industry that provides approximately 400,000 men and women in the United States with family-wage jobs. AWC members make products that are essential to everyday life from a renewable resource that absorbs and sequesters carbon. Staff experts develop state-of-the-art engineering data, technology, and standards for wood products to assure their safe and efficient design, as well as provide information on wood design, green building, and environmental regulations. AWC also advocates for balanced government policies that affect wood products working with other wood product trade groups.

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with \$1.1 trillion in annual sales, over 12,000 facilities nationwide, and with more than 1.8 million employees worldwide. IECA membership represents a diverse set of industries including chemicals, plastics, steel,

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<sup>2</sup> ACC's delivers value to our members through advocacy, using best-in-class member engagement, political advocacy, communications, and scientific research to foster progress in our economy, environment, and society.

<sup>3</sup> ACC has a particular interest in the proceeding based on the language of the Notice itself, which references the chemical sector directly in its rationale for including energy consumption in the GHGRP. See 2023 GHGRP Proposal at 32885 ("For example, based on the most recent Manufacturing and Energy Consumption Survey (MECS) published by the DOE Energy Information Administration (EIA) in 2018, the EPA estimates that indirect GHG emissions from electricity consumption from the chemical manufacturing sector (4.8 million mtCO<sub>2</sub> e) were approximately equal to the chemical manufacturing sector's direct emissions from natural gas combustion (5.2 million mtCO<sub>2</sub> e") (internal citation omitted).

iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, automotive, independent oil refining, and cement.

## **B. Additional Time is Needed for Meaningful Notice and Comment**

While framed as a mundane supplemental proposal, the notice is quite extraordinary. Among other things, the rule would significantly expand EPA's oversight over Part 98 reporters to operations well beyond the regulated parties' fence lines or control, and require disclosure of information relating to third-party vendors, sourcing decisions, and procurement arrangements. These issues raise immediate questions regarding the scope of EPA's authority under section 114 of the Clean Air Act, the Paperwork Reduction Act, and the prior authority used to develop the original Part 98 reporting program. They also raise more complex, interwoven, and contentious questions under federal and state environmental, climate, energy, corporate, and competition law; other issues of administrative law and procedure; and factual and technical questions requiring consultation with Requestors' member companies and upstream supply chain partners.

The supplemental proposal's release also coincides with the development and implementation of several other cross-cutting proceedings directly relevant to this rule and affected stakeholders. At EPA, the Air Office recently released new data to the docket for its major proposed [New Source Performance Standards and Emissions Guidelines for Greenhouse Gas Emissions from Fossil Fuel-Fired Electric Generating Units \(EGUs\)](#), a rule that could disrupt and transform the U.S. energy sector, shape the growth of alternative energy technologies and markets, and influence corporate business strategy with respect to current and future operations.<sup>4</sup> In addition, on June 30, 2023, OAR released a 647-page prepublication draft of a separate Part 98 proposed rule, [Greenhouse Gas Reporting Rule: Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems](#).<sup>5</sup> This rule raises overlapping issues of policy and precedent that will require careful review and coordination by many of the same stakeholders reviewing the instant rule.

Beyond EPA, the Security and Exchange Commission is deliberating on extensive public comments related to its sweeping proposed [Rules to Enhance and Standardize Climate-Related Disclosures for Investors](#), projected for release within [the next three to four months](#).<sup>6</sup> The proposed rule included significant reporting and disclosure mandates on emissions from purchased electricity, heat, and other related business operations

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<sup>4</sup> 88 Fed. Reg. 33240 (May 23, 2023).

<sup>5</sup> *Federal Register* Notice was signed on June 30, 2023. Prepublication draft available at [https://www.epa.gov/system/files/documents/2023-07/SAN%2010246%20Subpart%20W%20NPRM%20Premable%20and%20Rule\\_Admin.pdf](https://www.epa.gov/system/files/documents/2023-07/SAN%2010246%20Subpart%20W%20NPRM%20Premable%20and%20Rule_Admin.pdf).

<sup>6</sup> 87 Fed. Reg. 21334 (April 11, 2022).

(raising many of the same concerns implicated here). Separately, just last week, the International Trade Commission (ITC) announced its [intent assess the greenhouse gas \(GHG\) emissions intensity of steel and aluminum produced in the United States](#).<sup>7</sup> Notably, recognizing the complexity of these issues, ITC has set a public hearing on this process for November 17, 2023, four months from the announcement of the action.

Looking beyond the federal government, on June 26, 2023, the International Sustainability Standards Board's (ISSB) release a new [IFRS S2 Climate-related Disclosures Standard](#).<sup>8</sup> While voluntary in nature, it is likely to be very influential and the implications of the new standard must be considered by commenters and the Administration itself, to reduce the risk of conflict or duplication.<sup>9</sup>

In short, based on the significant and diverse legal and policy issues raised by the supplemental proposal; the need to consider the proposal in light of concurrent policy proceedings; and the inevitable resource limitations stakeholders face in participating meaningfully across multiple venues during the summer months, EPA should extend the comment period or stay this discretionary proceeding entirely pending further clarification and resolution of other related proceedings. Absent such an extension or stay, the Requestors and other stakeholders will be denied a reasonable opportunity to conduct the comprehensive and informed consultation and analysis needed to provide meaningful input in this proceeding, and EPA will be denied the information needed to make an informed, reasoned decision on this proposed rule.

### **C. Conclusion**

For these reasons, the Requestors respectfully request that EPA grant a 60-day extension in this proceeding, realign the comment deadline to that established for the proposed Subpart W proposal, or stay further proceedings on the rule pending further analysis of the various proceedings listed above.

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<sup>7</sup> ITC, *Greenhouse Gas Emissions Intensities of the U.S. Steel and Aluminum Industries at the Product Level*, Inv. No. 332-598 (July 6, 2023).

<sup>8</sup> IFRS, *IFRS S2 Climate-related Disclosures* (June 26, 2023), available at <https://www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ifrs-s2-climate-related-disclosures/>.

<sup>9</sup> *Id.*

Thank you for considering the Requestors comments and please feel free to reach out to me at [Charles\\_franklin@americanchemistry.com](mailto:Charles_franklin@americanchemistry.com) or 202-297-4420 or the other Requestors listed below if you would like to discuss these comments further.

Sincerely,



Charles Franklin, Senior Director  
Energy, Climate, and Environment

On behalf of:

The American Chemistry Council (ACC)

The American Forest & Paper Association (AF&PA)

The American Wood Council (AWC)

The Industrial Energy Consumers of America (IECA)

Cc:

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