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U.S. Environmental Protection Agency
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Mailcode 6102T
Attention Docket ID No. EPA-HQ-OAR-2008-0508
1200 Pennsylvania Avenue, NW.
Washington, DC 20460

Submitted via email

To Whom It May Concern:

On behalf of the Energy Recovery Council (ERC), I am providing the following comments on the proposed rule regarding the Mandatory Reporting of Greenhouse Gases; Docket ID No. EPA-HQ-OAR-2009-0580 (Fed. Reg. Vol. 74 No. 68, April 10, 2009). While the ERC recognizes the importance of accurately reporting greenhouse gas emissions, we are concerned that the rule establishes precedents that will impose onerous requirements on the waste-to-energy sector or that will lead to the reporting of misleading or inaccurate information.

ERC represents those engaged in the nation's waste-to-energy sector. Waste-to-energy facilities produce clean, renewable energy through the combustion of municipal solid waste in specially designed power plants equipped with the most modern pollution control equipment to clean emissions. Trash volume is reduced by 90% and the remaining residue is safely reused or disposed in landfills. There are 87 waste-to-energy plants operating in 25 states managing about 7 percent of America's trash, or about 90,000 tons each day. The nation's waste-to-energy plants have a baseload electric generation capacity of approximately 2,700 megawatts to meet the power needs of more than two million homes while serving the trash disposal needs of more than 36 million people. In addition, a majority of the nation's waste-to-energy facilities are owned by local governments that have invested in this critical municipal infrastructure to achieve long-term solid waste management solutions.

Analysis of greenhouse gases using a life cycle assessment (LCA) shows that waste-to-energy achieves a net reduction of greenhouse gas emissions (GHG). The LCA approach is recognized and recommended by a variety of international organizations involved with GHG management including the IPCC, USEPA's Municipal Solid Waste Decision Support Tool and the Clean Development Mechanism of the Kyoto Protocol. LCA procedures applied to waste-to-energy facilities identify four major greenhouse gas related processes:

1. Anthropogenic, or fossil CO₂, GHG emissions from combustion of waste components (plastics, textiles, etc.) made from fossil fuels such as oil;

2. Avoidance of CO₂ from fossil fuel-fired power plants on the local grid occurs due to the waste-to-energy facility generating renewable electrical power or steam;
3. Avoidance of landfill methane emissions from waste that would have been landfilled in the absence of the waste-to-energy facility;
4. Avoidance of extraction and manufacturing GHG emissions due to ferrous and non-ferrous metal recovery and recycling at waste-to-energy facilities.

Conventional accounting and reporting of direct GHG emissions is based on traditional point source reporting and does not consider items 2, 3 and 4. However, taking the LCA approach is supported by the FY2008 Consolidated Appropriations Act that in an accompanying explanatory statement states that the EPA is “directed to include in its rule reporting of emissions resulting from upstream production and downstream sources.”

Traditional GHG emissions inventory accounting only addresses emissions from within the boundaries of an organization, and therefore does not capture the GHG reductions achieved by waste-to-energy. However, accurate inventories are critical to accurate life cycle comparisons. For several years, we have submitted detailed comments on the EPA’s National Greenhouse Gas Inventory in an effort to correct methodological errors in the calculation of emissions from the waste-to-energy. Emissions from municipal waste combustion are approximately half of what is reflected in the GHG inventory. Accurate emissions reporting under the EPA’s proposed regulation should help to correct those errors in the national inventory.

In summary, we strongly believe that waste-to-energy reduces greenhouse gas emissions and that EPA programs focused on either the reporting, inventorying, or reduction of greenhouse gas emissions must accurately reflect the specific greenhouse gas reducing properties of waste-to-energy. Please find attached detailed comments with respect to the proposed mandatory reporting rule.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ted Michaels".

Ted Michaels
President



Stationary Fuel Combustion Emissions Reporting

All Municipal Waste Combustors Should be Allowed to use the Tier 2 Calculation Methodology for Reporting GHG Emissions under the Mandatory Reporting Rule (MRR)

The MRR proposes to require all municipal waste combustors (MWC) with a maximum rated input capacity of greater than 250 tons per day of MSW to use the Tier 4 calculation methodology. This requirement is problematic as it does not reflect current regulatory requirements or best management practices for MWCs. In addition, it will be very costly and while failing to result in commensurate enhancements in reporting accuracy. Further, the GHG emission calculation methodology imposed on MWCs is out of proportion to the sector's relative GHG emissions when compared to other electricity generators. As we note below, other GHG reporting programs allow MWCs to use the Tier 2 calculation methodology. In fact, EPA proposes in the MRR to allow fossil fuel-fired, stationary combustion sources with far greater GHG emissions than MWCs to use the Tier 2 calculation methodology. We urge the Agency to reconsider requiring MWCs to use the Tier 4 methodology and recommend that MWCs use a modified Tier 2 methodology analogous to the Title V program methods used for annual reporting of criteria pollutants and hazardous air pollutants (HAP).

MWCs, Also Known as Waste To Energy (WTE) Facilities are Very Small Emitters of GHG

EPA's most recent national GHG inventory (*Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2007, April 2009*) reports WTE facilities emit very small amounts of GHG relative to other electricity producing sources. Municipal waste combustors account for only 0.34 percent of total CO₂ equivalent emissions from all Energy Related Activities (20.8 Tg CO₂e from a total of 6170.3 Tg CO₂e from the entire source category) and only 0.55 percent of total CO₂e emissions from the Combustion Source sector in EPA's proposed reporting rule. Based on WTE's relatively small contribution to GHG emissions in their sector, ERC suggests that more flexible and cost effective GHG reporting requirements are appropriate and would result in data of sufficient accuracy and reliability to meet EPA's needs.

The Western Climate Initiative Mandatory Reporting Requirements and the U.S. Department of Energy's 1605 (b) Voluntary Reporting Program Employ Tier 2 Calculation Methods

The Tier 4 calculation methodology proposed in the mandatory reporting rule is very similar to the initial method proposed in the January 2009 draft Western Climate Initiative (WCI) Mandatory Reporting Requirements. Subsequently in May 2009, after extensive public comments, the WCI concluded that requiring the installation of CEM

components for CO₂ and stack gas flow measurement at facilities, which had not previously installed them, was extremely onerous and expensive and would not improve overall reporting accuracy. Accordingly, the WCI adopted a methodology for the General Stationary Combustion category that eliminated the use of 40 CFR Part 75 type CEMS unless a unit was already equipped with both a stack gas volumetric flow rate monitor and a CO₂ CEM. WCI also eliminated the use of Part 75 CEMS for municipal solid waste combustion units and established the use of Tier 2 calculation methodologies.

The U.S. Department of Energy (DOE) 1605(b) Voluntary Reporting program offers similar flexibility in its “A-Rated Measurement and Estimation Method” for stationary combustion sources. The DOE approach includes:

- Use of continuous direct measurement of CO₂ at facilities that have already installed CEMs for CO₂;
- Use of emission factors based on multiple, regularly repeated, on-site direct measurement of source emissions; and
- Use of measured source activity data (e.g., amount of MSW processed, steam production)

ERC recommends that EPA incorporate similar requirements for municipal waste combustors in the final MMR. As WCI concluded, accurate annual GHG emissions result when using the Tier 2 calculation methodology, including use of actual steam generation or waste throughput data, CO₂ emission factors, heat input to steam output or stack flow rate to steam output ratios, and fuel HHV.

The Proposed 250 Tons Per Day (tpd) Threshold for Applying the Tier 4 Methodology to MWCs is Inappropriate and Inequitable

EPA is proposing to require MWC units with a maximum rated capacity of greater than 250 tons per day of MSW to use the Tier 4 methodology, while other stationary combustion units of 250 MMBtu/hr may use Tier 2. ERC recommends that the EPA allow large and small capacity MWCs to use the Tier 2 calculation methodologies, particularly as MWCs have significantly lower GHG emissions than the 250 MMBtu/hr combustion sources as shown in Table 1.

Table 1. Relative CO₂ Emission Rates

Combustion Unit	Emission Rate Kg CO₂/hr	Emission Factor kg CO₂/ton
Oil-fired (250 MMBtu/hr) ¹	18,275	-
Natural gas-fired (250 MMBtu/hr) ²	13,255	-
MWC processing capacity: 250 tons of MSW/day ³	3,331	320
750 tons of MSW/day ⁴	9,894	317

It is readily apparent that a 250 ton per day MWC emits only 18 percent of the CO₂ emitted by a 250 MMBtu/hr oil-fired unit or only 25 percent of the CO₂ emitted by a gas-fired combustion unit. Even a larger, 750 ton per day municipal waste combustor emits only 54 percent as much as a 250 MMBtu/hr oil-fired combustion unit and 75 percent as much CO₂ as a 250 MMBtu/hr gas-fired combustion unit. Consequently, a large MWC unit's cost to implement the Tier 4 methodology is disproportionate with respect to their relative GHG emissions. In addition, unlike typical 250 MMBtu combustion units, MWCs are subject to extensive source testing, and requirements to install Part 60 CEMS equipment that provides accurate and reliable GHG reporting. We question the need to impose costly, alternative monitoring equipment on these relatively small sources, particularly when far larger sources may utilize the far less expensive Tier 2 methods.

The Increased Costs for Installing Part 75-like CEMS Are Not Justified

As the WCI recognized, the substantial costs to implement Tier 4 methodology are very difficult to justify since the Tier 2 methods provide CO₂ emissions of sufficient accuracy. All MWC facilities have state-of-the-art wet or dry extractive Part 60 CEMs that use O₂ for diluent correction. None of the facilities have stack gas flow monitors, only a few have Part 60 certified CO₂ CEMS, and all facilities with dry-based CEMS do not have moisture monitoring. Consequently, for all large MWCs nationally, extensive CEM

¹ Fossil fuel oil fired combustor at 250 MMBtu/hr x 73.1 kg CO₂/MMBtu = 18,275 kg CO₂/hr

² Natural gas fired 250 MMBtu/hr x 53.02 kg/MMBtu = 13,255 kg CO₂/hr

³ 250 ton MWC unit = 104 MMBtu/hr at 5000 Btu/lb HHV (This is approximate 2007 national MSW HHV average from Energy Information Agency (EIA) 906/920 reports). 250 tpd MWC at 104 MMBtu/hr x 90.6 kg CO₂/MMBtu = 9442 kg CO₂/hr x 0.35 for non-biogenic CO₂ (0.35 is approximate national average non-biogenic CO₂ fraction from ASTM D6866 radiocarbon dating analysis) = 3,331 kg CO₂/hr.

⁴ 750 ton/day MWC = 312 MMBtu/hr at 5000 Btu/lb HHV; at 312 MMBtu/hr x 90.6 kg CO₂/MMBtu x 0.35 = 9894 kg CO₂/hr.

retrofits will be required to comply with Tier 4 including:

- Installation of stack flow monitors;
- Installation of moisture monitors for dry based systems;
- Installation of CO₂ analyzers and integration into existing CEMs;
- Plant modifications and integration including: installation of stack flow monitor ports, signal and power wiring, wiring tray or conduit and new access platforms (depending on suitable flow monitor location);
- New CEM data systems for automatic data substitution and reporting; and
- Initial certification of flow monitoring systems and CO₂ analyzers.

Based upon cost estimates from approved CEMS equipment vendors at one of ERC members companies, estimated costs for installation of Tier 4 monitoring would range up to \$4.5 million, with annual operating costs of a half a million dollars. Further, the purchase, installation, startup and certification process for the new equipment would likely delay reporting of 2010 emissions data collection and subsequent reporting.

ERC Recommends Using the DOE 1605 (b) Methodology or a Modified Tier 2 Calculation Methodology

Consistent with the WCI and DOE GHG reporting rules, EPA's final MRR should eliminate the requirement that large MWCs use the Tier 4 methodology. The DOE 1605 (b) approach is very similar to the calculation methodology used for reporting annual emissions of criteria pollutants and HAPs as required by Title V operating permits. Each year MWC facilities must conduct multiple stack or performance tests (under NSPS Subpart Eb/Cb) on all MWC units, over several days using EPA Methods 1-29. Some MWC facilities stack test twice per year, as some state requirements are more restrictive than the federal standards. The DOE approach would take advantage of these extensive testing requirements.

The modified Tier 2 methodology would utilize multiple stack results over several days as follows:

- Calculate facility average CO₂ concentration (%), stack gas flow rate (DSCF/Hour) and boiler load or steam production (Klbs/hour).
- Calculate a Stack Flow to Load Ratio (SFLR) or DSCF/Hr per Klbs/hr steam production. The SFLR is analogous to the proposed Tier 2 "B" design heat input to steam ratio used in Equation C-2b, but could be considered more representative since it is based on actual test data.
- Obtain biogenic/non-biogenic CO₂ fractions using ASTM Methods D 7459 and D 6866-06a from integrated gas samples collected during stack testing.
- Use CO₂ concentration, total steam production and SFLR to calculate MWC unit and facility wide annual CO₂ emissions.

The above approach modifies the Tier 2 methodology slightly since actual CO₂ concentrations are used (not a fixed emission factor), and mass CO₂ emissions are calculated from actual stack gas flow and actual steam production rather than using a

fixed design heat input. Table 2 below summarizes 2008 non-biogenic CO₂ emissions from large (i.e., greater than 250 tpd) MWC facilities calculated in accordance with the proposed alternative methodology.

Table 2.ERC Large MWC Facility 2008 CO₂ Emissions

Plant	EPA Methods 1-29				Operating Data				From ASTM D 6866-06a Results				
	Avg Annual Stack Test Data				Total Steam Klbs	Total MSW Tons	Total CO2 Metric Tons/yr	Total CO2 kg/ton	Biogenic		Non-Biogenic		
	% CO2	DSCFH	klbs/hr	SFLR					Carbon %	Kg CO2 Ton MSW	Carbon %	CO2 MT/yr	Kg CO2 Ton MSW
1	9.5%	5,703,360	197.0	28,951	4,516,057	689,076	<u>648,629</u>	936	62%	581	38%	245,189	356
2	8.9%	7,020,000	205.0	34,244	3,236,933	524,029	<u>512,479</u>	973	65%	633	35%	178,539	341
3	8.3%	2,510,160	68.3	36,752	1,151,351	189,570	<u>182,447</u>	961	60%	576	40%	72,846	384
4	9.6%	5,724,000	196.0	29,204	4,785,773	737,183	<u>697,005</u>	944	61%	576	39%	271,339	368
5	10.6%	2,158,998	68.2	31,657	1,116,630	192,522	<u>194,649</u>	1011	63%	637	37%	72,025	374
6	8.3%	2,174,940	68.8	31,613	1,070,344	170,995	<u>145,891</u>	852	50%	426	50%	72,813	426
7	9.2%	2,322,000	72.0	32,250	1,205,103	189,831	<u>185,742</u>	977	60%	586	40%	74,162	391
8	9.7%	5,368,998	195.8	27,428	3,186,162	481,751	<u>440,352</u>	912	61%	557	39%	171,426	356
9	10.2%	5,046,000	167.7	30,089	2,680,392	449,618	<u>427,348</u>	949	59%	560	41%	174,895	389
10	9.3%	5,709,000	162.0	35,241	2,417,252	432,071	<u>411,547</u>	951	65%	618	35%	143,780	333
11	9.2%	5,611,500	185.0	30,332	4,278,513	690,184	<u>620,236</u>	897	63%	565	37%	229,071	332
12	12.3%	1,369,920	61.5	22,275	2,034,278	313,265	<u>289,537</u>	923	63%	581	37%	106,934	341
13	10.1%	5,775,540	184.0	31,389	4,395,608	825,749	<u>723,910</u>	875	66%	578	34%	245,683	298
14	10.0%	5,909,820	184.0	32,119	4,498,232	812,508	<u>750,529</u>	922	65%	599	35%	262,208	323
15	8.7%	4,002,000	108.0	37,056	1,560,873	251,522	<u>261,402</u>	1037	61%	633	39%	101,762	405
							Mean	943	62%		38%		362
							SD	48.5	4%		4%		34
							STD/ Mean	5.1%	6.3%		10.0%		9.5%

Based on the above, a proposed third equation to Tier 2 Calculation Methodology would be:

$$CO_2 = (\%CO_2) \times (CF) \times (SFLR) \times (Steam) \times (NBG) \times 1/1000 \quad (\text{Eq. C-2c})$$

Where:

CO₂ = Annual non-biogenic CO₂ mass emissions from MSW combustion (metric tons)

Steam = Total mass of steam generated by MSW combustion during the reporting year (Klb steam)

% CO₂ = Average % CO₂ for all performance tests in reporting year.

CF = Conversion from % CO₂ dry to kg/DSCF (5.195 x E-04)

SFLR = Ratio of stack gas flow rate (DSCF/Hr) to steam production (Klb/hr) for all performance tests in reporting year.

NBG = Non-biogenic carbon fraction from ASTM D6866-O6a from all performance tests or analysis in reporting year.

We recommend that the ASTM D6866-06a non-biogenic carbon fraction results be directly included in the calculation methodology for Municipal Solid Waste combustion.

This will improve transparency in reporting GHG CO₂ emissions and eliminate potential for error in apportioning non-biogenic and biogenic CO₂ emission.

Alternative Thresholds for Methodologies

However, if EPA decides that thresholds should be used to determine the applicability of the various calculation methodologies, then an alternative threshold for use of Tier 4 for MWCs should be included. An appropriate threshold should be based on non-biogenic CO₂ emissions equivalent to a 250 MMBtu/hr natural gas fired combustion source. Using the emission factors and assumptions in the calculations above, we propose the following:

“(5) Tier 4 Calculation Methodology: ... (ii) Shall be used if: ..., or if the unit combusts municipal solid waste, **and** if non-biogenic CO₂ emissions are greater than 13,255 kilograms per hour calculated using maximum permitted heat input in MMBtu per hour, Table C-2 default emission factor^b *nvc_b* and the non-biogenic fraction from ASTM D 6866-06a results.”

Section 98.33 (b)(5)(ii) Should be Modified to Clarify Conditions Under Which Units Must Use the Tier 4 Calculation Methodology

Section 98.33 (b)(5)(ii) outlines the conditions under which a reporter must use the Tier 4 calculation methodology to estimate a unit’s emissions. As drafted, it lists a series of conditions, (A) through (F), with no conjunctions between conditions. We assume the Agency intends that all conditions must be met for the Tier 4 method to apply. Otherwise, the application of just one condition—the unit has operated for more than 1,000 hours in any calendar year since 2005—would require the vast majority of stationary combustion units to use Tier 4. We do not believe the EPA intended such a far-reaching result. We urge the EPA to insert the word “and” between each of the conditions to clarify that all conditions must be met before a unit is subject to Tier 4. Further, per our comments above concerning application of Tier 4 to municipal solid waste combustion, we urge the Agency to delete the second half of condition (A) referring to units that combust MSW and have a maximum rated input capacity greater than 250 tons per day of MSW.

Section 98.6 Definitions

The following clarification should be incorporated in the rule definitions to insure all terms referenced in rule are defined.

- A definition for Non-Biogenic or Anthropogenic CO₂ should be added as: “CO₂ emitted to the atmosphere from the combustion or thermal disassociation of fossil carbon in fossil based materials such as plastics, synthetic textiles and synthetic rubber.” This defines non-biogenic CO₂ as determined through ASTM Method D 6866-06a

- The Greenhouse Gas definition should clarify that biogenic CO₂ is excluded consistent with the IPCC and all other GHG program reporting conventions.
- The definition for CO_{2e} should be added to clarify the Section 98.36 data reporting requirements. “CO_{2e} means total GHG gases in equivalent CO₂ global warming potential including anthropogenic or non-Biogenic CO₂, CH₄, N₂O, SF₆, HFCs, PFCs and other fluorinated gases as defined in this section.”
- The definition of maximum rated input capacity (for Municipal Waste Combustion) should be revised consistent with the MWC unit capacity calculation in the Large MWC (> 250 tpd) NSPS standard under 40 CFR 60.59b (j) or the Subpart Eb citation can be referenced in the definition.

98.33 Calculation Methodologies

In Tier 2 Equation c-2b The “B” ratio is incorrect and should be revised consistent with the Western Climate Initiative calculation on which it was based. Revised ratio should be: Ratio of boilers maximum design rated heat input capacity to its design rated steam output capacity (mmBtu/lb steam). Same comment for equation C-10b for N₂O and CH₄ calculations.

98.33(e)(3) MSW Combustion

The calculations for MSW combustion focus on biogenic CO₂ which is not considered a GHG gas by IPCC or in any GHG reporting convention as explained above on our Section VI. Non-biogenic CO₂ or Anthropogenic only is included in total CO_{2e} emissions. Since only non-biogenic CO₂ is included in CO_{2e} total, Section 98.33 (e)(5) should be revised to include calculation of non-biogenic CO₂ emissions derived from ASTM D 7459-08 and D 6866-06a methods. Non-biogenic fraction is 1- biogenic fraction as reported with ASTM D6866 results. If biogenic or biomass fraction is 0.30 then non-biogenic fraction in 1- 0.30 or 0.70. Note also the biogenic fraction of 0.30 used in the example is incorrect. The national biogenic CO₂ average fraction for MSW combustion is approximately 60-70% (or 0.60- 0.70).

Third-Party Verification is Unnecessary in a Mandatory Reporting Program and Should Not be Required in the Federal Program

ERC does not support a requirement for third-party verification of mandatory GHG emissions reporting and agrees with the EPA’s decision to rely on Agency verification of emissions reports. There is no precedent for third-party verification in any federal environmental statute under which we operate. The solid waste management sector is subject to numerous reporting requirements under federal statutory programs including The Resource Conservation and Recovery Act, Clean Air Act, Emergency Planning and Community Right-to-Know Act, Spill Containment and Countermeasures Program, the Clean Water Act and Superfund to name a few. None of these programs requires third-party verification of reporting, and many do not require self-certification. All, however, include enforcement provisions, which create significant disincentives for faulty or false

reporting. As noted in our comments above on enforcement, this proposal incorporates stringent enforcement mechanisms designed to promote accurate reporting and penalize violators. In fact, the proposed enforcement provisions in the rule language are overly stringent and should be amended and clarified.

The Proposed “Certificate of Representation” Requirement Is Unnecessary and Can Easily Be Deleted or Replaced Without Compromising the Effectiveness of the Rule

The proposed GHG reporting rule requires that the designated representative provide to EPA a “certificate of representation” before filing the GHG emissions report. *Id.* at 16,615 (proposed 40 C.F.R. §§ 98.4(b)-(d), (i)). The preamble to the proposed rule presents no rationale for this “layer” of certification, and no rationale is obvious from ERC member’s general knowledge of a other certification regimes, such as Title V’s requirement that a “responsible official” sign compliance certifications. *See, e.g.*, 40 C.F.R. §§ 70.5(d), 71.5(d) (requiring certification of “truth, accuracy, and completeness” by a “responsible official,” but not requiring the responsible official to prove his/her “bona fides” as in the proposed GHG reporting rule). Accordingly, ERC requests that the certificate of representation requirement be eliminated from the GHG reporting rule. Alternatively, ERC requests that those individuals who are “responsible officials” for purposes of Title V be deemed to satisfy the requirements of the designated representative under the new rule.

The Certificate of Representation Also Presents Timing Problems that Can be Remedied by its Deletion

The proposed GHG reporting rule provides that a company cannot file its GHG emissions report until EPA has received a “complete” certificate of representation. Proposed 40 C.F.R. § 98.4(d). This presents two key issues. First, EPA apparently sets up a system in which two filings are necessary -- first, the certificate of representation, and second, the emissions report. Given our comment above that the certificate of representation is not necessary, this two step filing process also seems unnecessary. Second, there is the obvious timing issue that arises from the requirement that the certificate of representation be “complete.” “Completeness” is a term of art that ERC member have substantial experience with under the Title V program where, for example, the application shield only attaches after the state permitting authority has determined that an application is “complete.” 40 C.F.R. §§ 70.5(a)(2), 71.5(a)(2) (“The source’s ability to operate without a permit . . . shall be in effect from the date the application is determined or deemed to be complete . . .”). In the proposed GHG reporting rule, by contrast, there are no time frames under which EPA must determine whether a certificate of representation is complete or when it would be deemed complete, so the reporting facility will not know when it will be able to file its emissions report. This will cause needless confusion (and enforcement exposure to companies), and is yet another reason to eliminate the certificate of representation requirement.

The Certification Language Statement Should Incorporate Title V's Well Established "Reasonable Inquiry" Standard

The proposed certification language of § 98.4(e)(1)⁵ is much more prescriptive than similar language in Title V (40 C.F.R. §§ 70.5(d), 70.6(d)). The ERC submits that the prescriptiveness is unnecessary, and that the Title V language is more appropriate here.

Most importantly, the proposed GHG reporting rule certification language does not incorporate the critical Title V requirement of "reasonable inquiry." The Agency should note that the preamble does incorporate that concept when it states "[o]n behalf of the owner or operator, the Designated Representative would certify under penalty of law that the report has been prepared in accordance with the requirements of 40 CFR Part 98, and that the information contained in the report is true and accurate, *based on a reasonable inquiry* of individuals responsible for obtaining the information." 74 Fed. Reg. 16,448, 16,463 (Apr. 10, 2009)(emphasis added). We infer that EPA wishes to incorporate "reasonable inquiry" into the certification of compliance, and request that the language of the certification be revised to read, "This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

Alternatively, the following modification of the proposed certification statement would reach a similar end: "I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all of its attachments. Based on my *reasonable* inquiry of those individuals with primary responsibility for obtaining the information, I certify [etc.]"

⁵ That language would require the designated representative to swear that "I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all of its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify [etc.]" 74 Fed. Reg. 16,448, 16,615 (Apr. 10, 2009).