

Chicago Climate Exchange

Comments to Proposed Revisions to Reporting Guidelines
Section 1605(b) of the Energy Policy Act

Dear Madam/Sir:

Chicago Climate Exchange[®] (CCX[®]) welcomes the opportunity to submit comments to the proposed revisions to Reporting Guidelines under section 1605(b) of the Energy Policy Act. CCX strongly supports efforts to enhance participation in and the rigor, accuracy, and reliability of the 1605(b) greenhouse gas quantification methods. The comments provided herein reflect the extensive practical experience of CCX's principals in designing and implementing a wide variety of financial, energy, agricultural and environmental markets.

CCX is a self-regulatory exchange that administers the world's first multi-national and multi-sector marketplace for reducing and trading greenhouse gas emissions. CCX represents the first legally binding commitment by a diverse cross-section of leading North American and multi-national corporations, municipalities and other institutions to establish a rules-based market for reducing greenhouse gases. CCX enables its members to receive credit for reductions, and to buy and sell credits to determine the most cost-effective means of achieving emission reductions.

CCX draws on our professional staff's decades of experience in creating new environmental and financial markets. Our principals' focused efforts in greenhouse gas management have been underway for almost nine years, involving preparation of a proposed GHG market architecture (1995), general research and publications, congressional testimony, advisory services provided to national governments and corporations, and execution of international carbon offset transactions. The CCX feasibility and design phases, which lasted two years, relied on input from a wide range of economic sectors as well as technical experts in the engineering, forestry, agricultural, academic, NGO and public sectors. In total, more than 50 corporate entities and hundreds of experts contributed to the design phase, which, through an extensive process of consensus building involving thousands of hours of professional time, resulted in the blueprint that has been followed in implementing CCX.

Please note that the comments and opinions contained herein are those of Chicago Climate Exchange and do not necessarily reflect the comments and opinions of its members.

Background Information on the Chicago Climate Exchange

CCX marks the first North American initiative in which entities from the public and private sectors have voluntarily entered into a legally binding commitment to reduce GHG emissions through a rules-based market. In addition to emission sources, CCX includes

farm and forest carbon sinks, offset projects and liquidity providers in North America. To foster international emissions trading, offset providers in Brazil can also participate.

CCX's members include American and Canadian-based companies, the North American subsidiaries of several leading European companies, academic institutions, financial institutions and non-profit organizations (see Table 1 at the end of this document for current CCX members). Annual revenue of CCX members is in excess of \$425 billion. CCX's overall program emission baseline is approximately 240 million metric tons carbon dioxide equivalent, of which approximately 230 million metric tons come from American emission sources (equal to approximately 4% of total annual U.S. GHG emissions).

CCX concluded its design phase in August 2002 by compiling a document called the Chicago Accord, which contained the main principles, the broad market architecture and the high-level rules by which CCX would operate. Entities were then invited to take a legally binding commitment to the provisions contained in the Accord. Fourteen CCX founding members were announced on January 17, 2003.

CCX published its detailed rulebook in July 2003 and activated the market on September 30, 2003 with an auction of emission allowances corresponding to 136,000 metric tons CO₂ equivalent. Continuous trading began on December 12, 2003 and, to date, allowances equivalent to over 150,000 metric tons of GHG emissions have been traded. Transactions have been executed for vintages 2003, 2004 and 2005, with trading being concentrated in the 2004 vintage.

CCX currently employs approximately thirty full-time equivalent professionals (including vendors). Importantly, CCX members are dedicating a significant amount of professional talent in carrying out their commitments to measure, report and manage greenhouse gases. At least one hundred individuals employed by CCX members are regularly working on CCX issues. Hundreds of other executives, board members and legal, financial and regulatory professionals have been engaged in decision-making related to CCX.

The CCX emission baseline period is 1998 through 2001. There are currently twenty-two CCX members with significant direct emissions that have made a legally binding agreement to reduce their GHG emissions by 1% per year, over the years 2003-2006.¹ CCX associate members pledge to offset the majority, if not all, of their annual GHG emissions through purchases made on CCX's trading platform. Other CCX participants include offset providers, who provide project-based sources of GHG emission reductions and mitigation, and liquidity providers, who assist in the efficient functioning of the market.

Although no regulatory framework is required for the operation of the Exchange, CCX has contracted with the National Association of Securities Dealers (NASD) to assure the integrity of the program by acting as an outside regulator. NASD audits reports on

¹ The CCX design period concluded in 2002, hence that year's exclusion from both the baseline and the period over which emission reductions must be made. This prevented members from taking actions to inaccurately inflate their baseline, while still allowing members time to prepare to make reductions.

baselines, annual emissions and the GHG performance of offset projects. It ensures that members meet CCX's financial criteria for membership. NASD also provides market surveillance to prevent manipulation of the market.

Summary of CCX's View of Proposed 1605(b) Revisions

CCX supports efforts to enhance measurement accuracy, reliability, and verifiability of greenhouse gas emissions and mitigation. We also believe that participation in a high-quality data reporting and registration process by the widest possible range of organizations should be encouraged. We strongly believe that the structured, rules-based emissions quantification and audit processes that CCX members employ provides a source of high quality emissions data that should be recognized by any U.S. greenhouse gas emissions registration program.

Presented below are our specific comments. The arrangement follows the order in which the relevant issues appear in the Department of Energy document, "General Guidelines for Voluntary Greenhouse Gas Reporting," which outlines the proposed revised guidelines for the 1605(b) program and requests public comment.

Section I.B: Process for Finalizing and Implementing Guidelines

Calculation Tools

The document outlining the proposed revisions to the 1605(b) program states that the DOE intends to "specify the methods and factors to be used in measuring and estimating greenhouse gas emissions, emission reductions, and carbon sequestration." CCX members currently use the calculation tools issued by the GHG Protocol program of the World Resources Institute (WRI) and the World Business Council for Sustainable Development (WBCSD). These tools are widely regarded as rigorous and credible. They have been extensively field tested around the world and have been subjected to detailed empirical analysis, peer review and consultation. These methods are also consistent with the international norms that many multi-national entities will be employing around the world. It is critically important to allow such entities to employ standardized quantification across their worldwide operations.

Should DOE adopt methods that differ from the WRI/WBCSD tools, it would bring 1605(b) out of line with the vast majority of GHG measurement, reduction and trading programs in the world. It would force the many U.S.-based companies that have subsidiaries based in Europe, Japan and other regions subject to regulation of GHG emissions or that are subsidiaries of such companies to use different standards, methods, factors and protocols in calculating emissions from the different parts of their companies. Not only would this unnecessary burden act as a deterrent to participation in 1605(b), it would run the risk of either rendering 1605(b) irrelevant or weakening the emerging standards for measuring and monitoring of GHG emissions and mitigation.

There are areas in which WRI/WBCSD tools are not available, such as measuring GHG mitigation due to the capture and combustion of landfill and agricultural methane or the carbon sequestered in the commercial inventories of forestry companies. In these cases, CCX's professional staff, which has many years of experience in this field, along with a wide range of outside experts, continues to develop calculation tools and protocols in a collaborative process with our members. These tools are made public through our rule-making process and become transparent standards for our rigorous process of verification and auditing. Several of these calculation tools are now being field-tested by our members.

If DOE were to limit flexibility by preventing entities from using calculation tools such as those provided by WRI/WBCSD or CCX to quantify their GHG emissions for the purpose of reporting to the 1605(b) program, it would harm the rigor of the program by forcing entities to use methods and factors that will not have been subjected to the same level of consultation, peer review and empirical testing as the above-referenced methods. We respectfully recommend, therefore, that the 1605(b) program not consume its time and resources by developing new calculation tools when there are standards in place, such as the WRI/WBCSD calculation tools, that are widely used and accepted and have proven to be both practical and highly rigorous.

Section II.B: Defining Reporting Entities

Third-Party Submission of GHG Data

DOE and the 1605(b) program seek input on whether and how third-parties such as trade associations can report or register GHG emissions reductions and mitigation data to the 1605(b) program. For the following reasons, CCX strongly recommends that the 1605(b) program allow third-parties, such as trade associations or voluntary emissions reduction and trading programs, to submit emissions data on behalf of their members, provided that properly documented permission is obtained from each organization whose data would be submitted in this way.

CCX maintains its own registry of our members' emissions, into which emissions data from the years 1998-2001 and 2003 is now being entered. The data maintained in our registry is of a consistent and very high quality due to the rigorous manner in which it is compiled and verified through the process described below.

CCX members calculate their baseline emissions data using the protocols outlined in the CCX rulebook and submit their emissions baseline data on a standardized reporting form. In addition, they complete a questionnaire, compiled by NASD, to explain how they have calculated the data and to highlight any particular issues of which NASD examiners should be aware, such as customization of conversion factors in light of on-site testing and analysis. Members also submit details of supporting data. They itemize, on a monthly basis where possible, data on energy use, process emissions and other information relevant for determining emissions. CCX has developed a series of

formulaic protocols that are applied in cases where data or emissions calculations tools are lacking or not appropriate.

NASD examiners then work with our members to ensure that their reports are accurate and consistent with CCX rules. The examiners check the accuracy of calculations, conversion factors and methodologies for quantifying emissions. Once the examiners are satisfied that the data presented are correct, they use standard statistical procedures to generate a random sample of the data for which they request supporting evidence, such as emission monitoring reports to the EPA or fuel invoices. After its examiners are satisfied that the evidence supports the reported emissions baseline, NASD issues a report that the emissions baseline complies with CCX rules. Only on completion of this highly demanding and lengthy process, which can take several months and involve hundreds of hours of staff time, is the data entered into the CCX Registry, a secure internet-accessible repository of emissions data.

This auditing process has helped our members to develop the data recording and retention procedures for the future that will ensure the consistency and accuracy of their annual emission reports for the years 2003 through 2006. Annual emission reports are also subject to audit by the NASD.

In light of the technological capacities of our internet-accessible registry, CCX would be able to easily submit the data of our members to the 1605(b) database, assuming the permission of our members. Our ability to report on behalf of our members would greatly reduce barriers to participation in the 1605(b) program for a significant group of leading corporate and public sector entities and would, in light of the rigorous auditing process, enhance the quality of the data stored in the 1605(b) database. We therefore strongly support allowing third-parties to report emissions inventories and register emissions reductions on behalf of individual entities.

Section II.D: Emission Sources and Sinks Covered

Indirect Emissions

The proposed revisions to the guidelines for the 1605(b) program would require organizations to report all indirect emissions from purchased electricity, steam or hot (or chilled) water. CCX believes that organizations should be allowed, but not required, to report indirect emissions and reductions in such emissions to the 1605(b) program.

CCX agrees that conservation, efficiency improvements and other methods for managing energy end-use offers a potentially major source of greenhouse gas reductions. Accordingly, CCX allows its members the option of adopting a supplemental reduction commitment for electricity purchases. Those who elect this option are subject to the same baseline period and reduction schedule applied to direct emissions. In order to limit the possibility of double-counting, CCX has limited the quantity of emissions allowances that may be earned under this provision by those who reduce electricity purchases below the CCX reduction schedule.

The proposed requirement to mandate inclusion of “indirect” emissions could deter CCX members from participating in 1605(b) by requiring them to repeat the demanding and lengthy process of gathering data and evidence and calculating emissions.

Section II.H: Emission Reduction Calculations

Reductions Eligible for Registration

CCX believes the revised 1605(b) program should accept absolute emission reductions for registration. CCX members have committed to absolute emission reductions. Such commitments are consistent with the commitments being implemented internationally, and with the nature of reporting and reduction requirements established in U.S. federal and state laws, notably the Clean Air Act and its amendments. CCX members have undertaken these commitments voluntarily, and have put enormous effort into both their design and implementation. CCX members are utilizing widely accepted emission quantification tools and are subject to an extensive audit process administered by a globally-respected market regulator. The CCX rules structure was finalized, and many CCX members executed their legally binding commitment letters to CCX, before DOE began developing the revised 1605(b) reporting guidelines.

Given this massive, voluntary effort to quantify and reduce emissions, we are concerned by the proposed requirement that absolute reductions in emissions can only be registered for the 1605(b) program “as long as the [reporting] entity demonstrates that these measured reductions were not caused by declines in its U.S. output.” This requirement could unfairly preclude participation in 1605(b) by entities that have made a major effort to measure and reduce absolute emissions, consistent with both previous and existing U.S. international commitments. The proposed approach will reduce future participation in the program, and, in particular, may dissuade from participation entities that have undertaken what may well be the most rigorous and systematic greenhouse gas emissions quantification process in the world. This would have the effect reducing both the usefulness and credibility of the 1605(b) program. It would also undermine the program’s goal of working with and taking into account emerging international and domestic approaches.

Section II.I: Recordkeeping, Report Certification and Verification

Verification of Emission Reductions

CCX encourages independent verification of emission reductions. Verification of GHG emissions reductions is fundamental to the credibility and integrity of the CCX reductions framework. CCX members have their emissions baselines directly audited by NASD, as described above. We believe that this process is at least as rigorous as any industry gold standard for verification and auditing. In addition, the annual emission reports of CCX members (as well as reports from offset projects, which are third-party verified) are also

audited by NASD. We believe that a third-party verification of CCX members' annual emission reports by NASD should be acceptable for registration in 1605b.

In addition, CCX requires that any project-based GHG emissions mitigation reports (e.g. from methane capture and carbon sequestration projects) must be independently verified by a qualified entity. NASD will audit both the verification procedures and the conclusions reached in reports provided by such registered verifiers.

Section II.L: Registration of Emission Reductions

Baseline Period

Baseline emissions for CCX members are determined by calculating entity-wide mean annual GHG emissions from all included emission sources over the course of the baseline period, 1998 through 2001. In addition to having undertaken the laborious process of calculating their baselines, our members have undergone stringent audits of their baselines conducted by NASD, as described above. These audits have been conducted against publicly available and transparent standards and are inherent to the integrity of the CCX program. CCX members have made a major investment of time, effort and resources in preparing and validating a baseline over the period 1998 through 2001. Accordingly, we believe 1605(b) should accept for registration absolute emission reductions realized relative to that four-year baseline period.

Credits for Early Action

The proposed revisions to the guidelines for the 1605(b) program would deny organizations the ability to register emission reductions for any actions taken prior to 2003. The rationale is to ensure that the focus remains on emission reductions achieved after 2002. This proposal would invalidate a number of extremely high quality and verified projects that have been already been registered with 1605(b). Many of these projects, especially international projects, have involved significant financial investment by U.S. companies and have provided invaluable demonstration effects and local benefits, thereby advancing the global interests of the United States. We believe this proposal sends a signal that would fundamentally damage the credibility and effectiveness of the 1605(b) program. It would provide justification for the view that any efforts to reduce emissions now are likely to be summarily ignored when future policy changes are adopted. In addition to confusing potential participants and harming program effectiveness, such a provision would be inherently unfair to those who have already acted in good faith as part of a reporting program that was approved by Congress.

Since the emission reductions from pre-2003 initiatives have already taken place, the ability to register them under 1605(b) could not in any way create perverse incentives that would undermine greenhouse gas intensity reduction targets for the future. The proposed restriction could, however, reduce the attractiveness of participation in the 1605(b) program for a large number of companies that did take early action in good faith.

Section II.O.2: Treatment of Certain Small Emissions

De Minimis Emissions

The proposed guidelines would allow reporting entities to exclude de minimis emissions up to 3% of their total emission inventories or emission sources less than 10,000 tons of CO₂ equivalent, whichever was smaller. We believe this threshold should be raised to 5%. Many U.S. companies have made a significant voluntary commitment to measure and reduce emissions through programs that have a 5% threshold for excluding de minimis emissions, including CCX. This threshold is also in common use to determine materiality from an accounting perspective. Since data on emissions from small emission sources are often the most difficult to acquire and tend to be less accurate than data on larger emission sources, use of a 3% threshold would place an extra burden on reporting entities without a commensurate gain in the comprehensiveness and quality of the data reported to the 1605(b) program.

Section II.O.7: International Emission Reductions.

Non-U.S. Offsets.

U.S. companies have made significant voluntary and good faith investments in high-quality non-U.S. offset projects that deliver quantifiable GHG mitigation. Many companies have been guided in their investment by the criteria and procedures developed through international consensus, CCX rules and other emissions reduction and trading programs. We urge you to protect the value of such investments by ensuring that the forthcoming guidelines specifying requirements for third-party non-U.S. offsets conform to the transparent and rigorous rules that many U.S. companies have already followed when investing in non-U.S. offset projects. We also encourage independent verification of such projects.

Thank you again for the opportunity to comment.

Respectfully submitted,

Dr. Richard L. Sandor
Chairman & CEO

February 17, 2004

**CHICAGO CLIMATE EXCHANGE®
MEMBERS**

*** February 17, 2004 ***

Aerospace and Equipment

Rolls Royce

Automotive

Ford Motor Co.

Chemicals

DuPont

Dow Corning

Consulting

Domani LLC

Diversified Manufacturing

Bayer Corporation

Electric Power Generation

American Electric Power

Manitoba Hydro

Electronics

Motorola, Inc.

Environmental Services

Waste Management, Inc.

Food Processing

Premium Standard Farms

Forest Products

International Paper

MeadWestvaco Corp.

Stora Enso North America

Temple-Inland Inc.

Information Technology

IBM

Open Finance LLC

Legal Services

Foley & Lardner

Liquidity Providers

Carr Futures

Refco LLC

Natsource LLC

Evolution Markets LLC

Kottke Associates LLC

ICAP Energy LLC

Tradition Financial Services

Amerex Energy Ltd.

Kingstree Trading LLC

Tradelink LLC

Marquette Partners LP

Goldenberg, Hehmeyer & Co.

Lee B. Stern

Jeffrey B. Stern

Transmarket Group LLC

Non-Governmental Organization

World Resources Institute

Municipalities

City of Chicago

Offset Aggregator

Iowa Farm Bureau

Offset Provider

Ducks Unlimited

Pharmaceuticals

Baxter Healthcare Corporation

Private University

Tufts University

Public University

The University of Oklahoma

Semiconductors

STMicroelectronics

Steel

Roanoke Electric Steel Corp.

Technology

Millennium Cell

Ecoenergetics srl

Transportation

Amtrak