

**The Honorable Eric Fanning
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“A Bar Too High: Concerns with CEQ’s Proposed Regulatory Hurdle for Federal Contracting”
House Science, Space, and Technology Subcommittee on Investigations and Oversight
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Introduction

Chairman Obernolte, Ranking Member Foushee, and members of the committee, thank you for inviting me to appear today. My name is Eric Fanning, and I serve as the President and CEO of the Aerospace Industries Association (AIA). For over 100 years, AIA has advocated for America’s aerospace and defense (A&D) companies and the more than 2.2 million men and women who are the backbone of our industry. AIA serves as a bipartisan convener, bringing people together to find consensus on important topics, like effective federal investments and adaptation of policies empowering our defense industrial base (DIB) and country for the 21st century and beyond.

AIA applauds this committee for its ongoing leadership in listening to A&D industry leaders and its willingness to act on new and innovative approaches that will support and strengthen our industry and our nation’s security.

Today, AIA represents more than 320 A&D companies ranging from family-run businesses to multinational corporations, operating up and down the supply chain. Our membership includes aircraft and engine manufacturers and companies that design and build cutting-edge military and dual-use technology second to none. Our members have a worldwide reputation for global technological leadership, and the A&D industry represents a dynamic workforce composed of many types of workers.

Our industry is not only integral to national security, but also a significant driver of the American economy. Despite the inflationary pressure and ongoing supply chain disruptions, the industry’s workforce generated \$951 billion in sales in 2022, a 6.7 percent increase from the prior year.

Even when facing challenges, the 2022 A&D workforce stood at more than 2.2 million strong. The industry supports jobs representing almost 1.5 percent of the nation’s total employment base. Nearly 58 percent of employment comes from the shared A&D supply chain and an extensive network of suppliers composed of thousands of small and medium-sized businesses located every state in the United States.

Background

The A&D industry has been very focused on promoting climate resiliency and greenhouse gas (GHG) reductions. Our member companies continue to demonstrate their ability to shrink their carbon footprint, while still supporting the missions and objectives of their customers. The industry has publicly committed to wholesale efforts to reduce emissions; for example, in October 2021, AIA announced the commitment by U.S. commercial aviation manufacturers to achieving Net Zero carbon emissions by 2050, and in April

2022, AIA published “Horizon 2050: A Flight Plan for the Future of Sustainable Aviation,” which describes the technologies and policies needed to achieve this goal. To achieve these goals, our member companies are investing in and developing new technologies and rethinking existing engineering to make their products more environmentally sound and reduce carbon emissions. This includes increasing the use of alternate materials, such as composites, to build more efficient planes; finding innovative methods of propulsion, including electric, hybrid, or hydrogen; using less energy and creating less waste during the manufacturing process; and exploring sustainable aviation fuels (SAF) as an alternative to traditional fossil fuels.

Just last week, the International Coordinating Council of Aerospace Industries Associations (ICCAIA), of which AIA is a member, released a commitment to ensuring all aircraft are SAF-compatible by 2030. Our commitment is evident in the outcomes; one example of this is that each new generation of Boeing commercial aircraft is 15-25 percent more sustainable than the generation before. AIA also supports appropriate disclosure of climate-related information, including GHG and climate-related financial risks, in accordance with the Executive Order on Climate-Related Financial Risk (EO 14030). We take these steps not just because we know it’s the right thing to do, but also because it’s what the market and our customers demand.

However, the proposed Federal Acquisition Regulatory (FAR) GHG emissions rule, while well-intended, will impact our national security and economic prosperity, especially for America’s small businesses that partner with the federal government. These overly burdensome requirements would in fact hinder our progress to a net-zero carbon emissions goal by 2050. The cumulative impact of this proposal along with other similar federal requirements being considered by the Securities and Exchange Commission is not executable for the American aerospace and defense industry.

Executability of the proposed rule

The foundation of AIA’s concerns with the proposed rule is the practicability of implementation. For the aerospace and defense industry — with its myriad uses, including critical national security applications, along with long lifecycles and complex supply chains — it is practically impossible. Specifically, this proposed rule would require Major and Significant Contractors to collect and publish GHG emissions data from Scope 1 and 2 inventories. It would also require Major Contractors to complete the CDP Climate Change questionnaire, collect and publish GHG emissions data for “relevant” Scope 3 emissions, and develop GHG emissions reduction performance metrics approved by SBTi before they can be eligible for new federal contracts.

By way of definition, Scope 1 emissions are the direct GHG emissions from sources owned, operated, or controlled by a company; in the case of the A&D industry, for an original equipment manufacturer (OEM), this includes emissions from energy used to produce an aircraft in its own facilities, for instance. Scope 2 are indirect emissions from energy usage, including purchased electricity, steam, heat, and cooling. Scope 3 encompasses all other indirect emissions created up and down the supply chain; for the A&D industry, this would be the largest proportion, including emissions used to manufacture parts and tools and transport them and emissions generated by aircraft when airlines or the military fly them. Accurately estimating Scope 3 emissions is beyond the ability of almost any company due to the extensive range and complexity of “upstream” and “downstream” emissions. These data requirements would be especially difficult to meet for small businesses.

The workload estimates in the proposed rule do not fully anticipate the burden of data collection and compliance-related activities required to set goals and measure Scope 3 emissions throughout the supply chain. Collecting this required data, especially Scope 3 emissions as required, would be extremely difficult for members of the A&D industry as our products are used domestically and internationally and our materials and parts are sourced domestically and internationally. American businesses cannot force international suppliers to comply with these burdensome requirements. The ultimate effect is that it will limit the diversity and resilience of the global supply chain, even as we already struggle with supply chain disruptions and delays. The challenges get even more onerous for military applications, where such data is sensitive and not likely to be provided by the Department of Defense.

Under this proposal, companies must set targets to reduce their emissions based on standards set by Science-Based Targets initiative (SBTi), an international coalition of non-governmental entities. To start, SBTi has not yet developed the methodology for evaluating Scope 3 emissions, has not been tested, and was not designed to do this at-scale. On September 13, 2023, SBTi announced a complete organizational overhaul, meaning we do not have fidelity on what its governance will look like, even as we propose handing them the reins of setting and policing emissions standards.

Furthermore, SBTi does not have sector-based guidance for all industries, including our A&D industry. As such, SBTi may establish aggressive timelines and rigid standards that are not appropriately tailored for the A&D industry, and American contractors would be forced to set and adhere science-based targets based on these unrealistic standards. A unique aspect of the A&D industry that makes developing and certifying a science-based target for GHG reductions difficult is its extensive material lifespan. Aircraft (both military and civilian), military platforms, and space vehicles have much longer service lives than most normal consumer products (in some cases, more than 30 years). Development of any science-based target for the A&D community must take this long lifecycle into account when developing policies intended to make major changes to aircraft and space fleets, and it's not clear that would be the case for this rule.

From the national security perspective, the rule leaves many unanswered questions about how industry is supposed to work with its end user — specifically, the Pentagon — to ascertain the Scope 3 emissions. If the Pentagon provides a total estimate, will the military then be bound to operate within those parameters, regardless of the threats we encounter? Delegating oversight functions to an entity supported by foreign governments, including China, raises serious concerns about the impact the Rule would have on procurement for national security. Will disclosing this information provide sensitive information, including new generation platforms, to our adversaries?

In addition, submitting the necessary information and gaining approval of the science-based target by SBTi will be more complex and time-consuming than described in the rule, and there would also be significant translation, transformation, and reorganization challenges in attempting to fulfill these two different requirements. On the back end, the means by which SBTi is to review contractors' target submittals and complete proper evaluations in a timely manner are uncertain and not well defined; the ability of SBTi to work with companies to complete timely assessments on nearly 1,000 new targets within two years is highly suspect, given that many companies already using this service have found the process is lengthy and SBTi personnel are slow to respond. The A&D industry is already a long lead-

time industry, and this could further delay delivery to the customer, including the U.S. military, and these lags would certainly drive costs up even more.

The federal contracting process, especially within the Department of Defense (DoD), is already complex with hundreds of vendor compliance requirements. Many companies simply cannot withstand the additional costs, including both financial and human resources, required to adhere to this proposed rule.

The costs and time spent simply trying to adhere to the reporting requirements of this rule ultimately means companies – from the largest original equipment manufacturers (OEMs) to the smallest suppliers – have fewer resources to dedicate toward efforts that will have a meaningful impact on reducing carbon emissions and making the aviation industry more sustainable.

Foreign influence on government procurement and the U.S. A&D industry

Beyond the practicability of this rule, our other primary concern is that the proposal would insert non-governmental international entities into the federal contracting process, potentially to determine who can and cannot do business with the U.S. government. SBTi is led by foreign nationals and has no accountability to the U.S. government; it is an organization designed to create transparency while having no transparency of its own. We think it unwise for the U.S. government to divest its authority to control what requirements are set for U.S. industry or when they should be changed — abdicating its global leadership in aviation innovation at the same time. This proposed rule would allow third-party, pay-to-use, non-governmental organizations (NGOs) to set and approve key standards in the federal contracting process without any requirement that the priorities of these NGOs remain aligned with those of the United States government. As SBTi sets these standards, there will be no opportunity for public comment, as is required in U.S. rulemaking.

The proposed rule taps into another international non-governmental nonprofit, the CDP, to solicit information regarding companies' environmental impacts and targets. Right now, some AIA member companies use the CDP's climate change questionnaire on a voluntary basis. They have noted that this questionnaire frequently changes to include new climate-related concepts and increasingly nuanced questions that only bestow credit if the respondent provides progressively detailed explanations and responses. The proposed rule moves questionnaire from voluntary use to a requirement. It then vests the SBTi with regulatory authority to apply those evolving standards to approve or deny Major Contractors' proposed emissions targets and to dive into the details of federal contractors' emissions data in the process. These questions are aligned with the Task Force on Climate-Related Financial Disclosures (TCFD), which was created and is run by the Financial Stability Board, yet another international body, which also lacks treaty basis and formal power. The outcome would be if a contractor does not complete the TCFD-aligned CDP questions and submit the questionnaire to CDP, or if SBTi does not approve the target submission, then SBTi would designate that contractor as "non-responsible" and ineligible to receive federal contracts.

In other words, this policy would open the door to foreign influence over American national security strategies and decisions. For over 100 years, the men and women of the U.S. A&D industry have worked tirelessly to support America's national security and equip the warfighter. It is unthinkable that this proposal would outsource governance to an international body, allowing foreign influence over who is qualified to build military equipment to protect our country. AIA believes that the U.S. government

must be involved in developing streamlined and simplified climate questionnaire and setting national policy on science-based GHG emission targets by sector. Requiring oversight in this area would save contractors time and reduce overall costs through predictable and stable questionnaires and GHG targets.

Implications for Small Business

The financial burden placed on small businesses within the proposed FAR rule is very likely underestimated and must be studied further. Large A&D manufacturers who now consistently report publicly on their emissions profile did not build that capacity overnight. Emissions accounting takes time, resources, manpower, and commitment to identify the data inputs, understand how to convert those inputs to emissions, and develop the necessary processes to establish an inventory. The government cannot expect the same of a small or medium-sized manufacturer that operates in a niche market on slim margins, with an ever-expanding regulatory burden and increasing customer expectations.

In addition, many of the mid-tier suppliers in our industry provide opportunities for small businesses to access federal work – the same small businesses that would bear this new compliance burden if the proposed rule were flowed down from major federal contractors.

In any scenario, implementing this rule would come at a significant cost to the federal government and its supply chain. That cost may become a market barrier for many small and medium-sized business already operating on thin profit margins may shift their businesses towards a strictly commercial focus, and the end result would be fewer companies participating in the already shrinking defense industrial base. The absence of new entrants and small businesses, our military can no longer access the full range of innovative solutions to meet the growing, geographically diverse, and evolving mission set positioned against a backdrop of competition with China, a war in Ukraine, and the possibility of conflict in Taiwan, as well as a range of other threats. The government must recognize that the Scope 3 ambition of this rule would clearly compromise other economically and socially significant contracting priorities.

Conclusion

AIA is dedicated to reducing carbon emissions in both commercial and military applications, keeping commercial aviation safe and economically viable, and improving the efficiency, affordability, and performance of the capabilities we provide to our armed forces. We are similarly committed to being a close partner with the government toward these ends as well. While we are actively working to reduce GHG emissions and increase climate resiliency, AIA strongly objects to this proposed rule in its current form. We urge that any further relevant rulemaking be suspended immediately.

In closing and on behalf of AIA and our members, I thank you for your time and consideration of these matters. As always, AIA is available to address any questions or concerns the Committee has now and in the future.