Congress of the United States

January 31, 2022

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

RE: Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review - Docket ID No. EPA-HQ-OAR-2021-0317

Dear Administrator Regan,

Thank you for your attention to our comments on the Environmental Protection Agency's (EPA) proposed rule, referenced above, posted on November 15, seeking to further regulate the oil and gas industry. While we welcomed the EPA's decision to extend this comment period, the extra 16 days provided is not sufficient for relevant stakeholders to provide the substantive comments necessary for a thorough rulemaking process. On top of the inadequate amount of time provided for public comment, the 154-page proposed rule is devoid of rule text and the kind of specificity that the public and regulated community are due. However, the intention behind the proposed rule remains clear: an increase in costly regulations that will harm the oil and natural gas industry and increase energy costs for Americans.

First, the EPA's desire to implement a community monitoring program to detect large emission events is troubling. To be clear, this regulatory approach should be abandoned; however, if the EPA is insistent on pursuing this course of action, it is vital that the program be carefully crafted to ensure protections from overzealous activists seeking to induce financial hardship on producers with false reports. The proposed rule states that the EPA "generally envision[s] a program for finding large emission events that consists of a requirement that, if emissions are detected above a defined threshold by a community, a Federal or State agency, or any other third party, the owner or operator would be required to investigate the event, do a root cause analysis, and take appropriate action to mitigate the emissions, and maintain records and report on such events." If the EPA intends to force expensive compliance costs on producers based on the analysis of "any other third party", it is vital to set very high standards for what constitutes credible data. There must be training requirements for submitting parties, and producers need to be given adequate time to complete any required compliance actions after notification.

Next, while there are some concessions for smaller producers, the proposed regulations could nonetheless put extreme financial burdens on them. For example, the optical gas imaging cameras required under this proposal can cost producers more than $100,000. On top of expensive onetime investments required by the proposed regulation, the additional documentation costs cannot be overlooked. Building new reporting systems is expensive and will come with additional increases in payroll costs as new employees will be needed to process all of the required documentation. These added costs are simply not feasible for smaller operations. Smaller producers do not have the same economies of scale as larger producers and cannot spread increases in fixed compliance costs over as many projects. This could result in many of them going out of business as they struggle to maintain profitability.

Additionally, we must "follow the science" – a phrase that has become a regular part of the American vocabulary, and a good phrase to live by. The Department of Energy will soon release an in-depth analysis on methane emissions produced by marginal wells and the results of that study will be extremely valuable to this rulemaking process. This federally funded report on the "Quantification of Methane Emissions from Marginal (Small Producing) Oil and Gas Wells" will provide actionable data on how small production operations contribute to global emissions, and preliminary information from the DOE indicate no quantifiable or measurable emissions. With the report due to be released any day now, there is no justifiable reason to not wait so that the results can be fully considered as part of the rulemaking process.

These are but a few of the many problems with this proposed rule. Recently, energy costs have significantly risen, and all across the country, Americans are paying the price. Burdening the oil and natural gas industry at this time would be a colossal mistake that would further exacerbate this trend. Higher energy costs harm all Americans.

We urge you to withdraw this proposed rule pending further environmental and economic study. Barring that, we call for a further extension of the comment period, of not less than 60 days, to give the public, regulated community, and other stakeholders the time necessary to analyze the proposal and fully participate in the rulemaking process. As the country continues to recover from the COVID-19 pandemic we need to be working to strengthen American energy production, not burdening the industry with unnecessary and costly regulation.

Sincerely,

Roger Marshall, M.D.
United States Senator

Tracey Mann
Member of Congress

Ted Cruz
United States Senator

Jodey Arrington
Member of Congress

James M. Inhofe
United States Senator

Stephanie Bice
Member of Congress

Steve Daines
United States Senator

John Hoeven
United States Senator

James Lankford
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Richard Hudson
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Liz Cheney
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Fred Keller
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