



November 25, 2019

Mr. Andrew Wheeler  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Submitted at <http://www.regulations.gov>

Re: Comments on Proposed Rule: Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review  
Docket No. EPA-HQ-OAR-2017-0757-0002

Dear Mr. Wheeler:

Thank you for the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposed reconsideration amendments to the Standards for New, Reconstructed and Modified Sources in the Oil and Natural Gas Sector, or the New Source Performance Standards (NSPS). With approximately C\$8 billion in assets under management, NEI Investments' approach to investing incorporates the thesis that companies can mitigate risk and take advantage of emerging business opportunities by integrating best environmental, social and governance (ESG) practices into their strategies and operations.

As an investor with a material exposure to the U.S. oil and gas industry and a belief that the industry will play – and is playing – a significant role in the energy transition, the proposed amendments are of significant interest to us. As they are currently constructed, the proposed amendments would increase the uncertainty facing the industry and may have a net negative impact on the industry's ability to raise capital. The amendments will lead to increased methane emissions at the precise time that the industry is striving to make the case for natural gas as a key component of the energy transition. This is a counterintuitive and counterproductive position to take, and we strongly recommend that the EPA reconsider the proposed actions.

As noted in the EPA's proposed rule, the oil and gas industry is a major source of methane emissions in the U.S. and methane is recognized to be a potent greenhouse gas (GHG). As methane is a product that can be captured and sold, we believe that reducing methane emissions is the most cost-effective way to reduce emissions for the industry in the near-term. We also note that the role natural gas will

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play in the energy transition will in part depend on industry success in minimizing methane emissions across the entire supply chain.<sup>1</sup> In its discussion of the proposed amendments the EPA does not state that managing methane emissions is no longer a priority for the agency nor does it provide any rationale disputing the need to keep oil and gas methane emissions in check. As such, we assume that the EPA's intention continues to be to optimize the reduction of methane emissions while maintaining a strong and viable oil and gas industry. We agree with that approach and offer the following comments in that context.

### Revision of the source category to remove storage and transmission

Regarding the proposal to revise the source category by removing the transmission and storage segment entirely and rescinding the NSPS requirements for emission sources within the segment, we do not see a compelling rationale for such an action. The proposal seems ripe for a legal challenge – and thus further uncertainty – and needlessly complicates emission reduction plans for the incumbent midstream players.

The EPA's contention that its 2016 inclusion of the transmission and storage segment within the source category was unreasonable does not hold up to the reality of the industry. In particular, the EPA highlights the divide between processing and transmission/storage as the delineation that makes the different segments independent of each other. However, the interdependence of the production, processing, transmission and storage segments of the industry is a given in the industry and is reflected by corporate structures.

Most major midstream companies operate across all three of processing, transmission and storage precisely because those segments are so interdependent. To take one example, Enbridge Inc. is one of the largest midstream companies in North America with transmission of 19.1 Bcf/d of natural gas, 159.3 Bcf of storage capacity and 3.1 Bcf/d of processing capacity. The company does not distinguish its processing facilities in its audited financial disclosures, and instead includes it as part of its Gas Transmission and Midstream business segment. There are numerous other examples – Kinder Morgan, Williams Companies, Energy Transfer – essentially every major midstream company has assets across all three segments because of the clear interdependence of those segments. To suggest it was unreasonable for the EPA to have determined that these segments were interdependent contradicts the business model of most every major midstream company operating in the U.S.

Perhaps more to the point, there is a significant overlap in the actual equipment used across the segments, from pneumatic pumps and valves to storage tanks and compressors. The solution set for

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<sup>1</sup> For example: "World Energy Outlook Special Report: Energy and Climate Change." International Energy Agency. IEA, June 15, 2015, *available at*:

<https://www.iea.org/publications/freepublications/publication/WEO2015SpecialReportonEnergyandClimateChange.pdf>

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limiting emissions from these sources is the same – and the benefits of applying solutions at scale across these three segments should be seen as an opportunity. Midstream companies will be applying solutions to reducing methane emissions across their business, and it would be arbitrary (and inefficient) for them to stop these efforts at the doorstep of their transmission facilities. Especially if the actual solutions are one and the same.

The data provided by the EPA in the proposed rule indicates that the transmission and storage segment is a significant contributor of methane emissions in the U.S., albeit a smaller one than the production and processing segment. However, the EPA spends a significant amount of effort in the proposed rule debating whether the EPA should have had to make a separate finding of significant contribution before including the segment in the NSPS. As noted above, we believe the 2016 finding that the segments are interdependent to be a statement of fact, thus making this argument moot. However, it is worth questioning the intent of the EPA's arguments on significant contribution because of the implications it has for the actual mitigation of methane emissions. The EPA has already found that methane (and VOC) emissions are a major pollutant, and it provides data to show the transmission and storage segment of the industry emitted the equivalent of 32 million metric tons of carbon dioxide in 2017 (in the form of methane emissions). This is just over 70% of the entire GHG emission profile of Norway – a country of over 5 million people with a significant offshore oil industry. That must objectively be considered a significant contribution. Clearly the most efficient way to deal with those emissions is to keep the segment in the source category for the NSPS. Debating whether there should be more paperwork done to land at the same result seems deeply inefficient.

Conversely, the immediate impact of this proposed amendment would be to remove the transmission and storage segment from the NSPS, leaving it unregulated for methane emissions. There is no indication from the EPA that it has any alternative plans in place to prevent emissions from this segment otherwise, thus the only possible outcome from this proposal will be an increase in methane emissions. The reputational impact of such an outcome will only be negative. In an era when investors are under significant pressure to reduce their exposure to the industry, anything that makes it harder to justify owning companies in the sector will ultimately impact the ability of companies to raise capital.

### Proposal to rescind the methane requirements for all oil and natural gas sources

The proposal to rescind the methane requirements of the NSPS applicable to all oil and natural gas sources raises significant concerns and will ultimately have severe negative impacts on the industry if implemented. The narrative that natural gas has a central role in the energy transition will be severely undermined, muddying the future of natural gas as a low-carbon fuel and may ultimately speed the transition away from natural gas as a result. It is also likely to create significant uncertainty for companies operating in the sector as such a decision is surely to result in legal challenges as well

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as possible yo-yo effects from future administrations looking to reinstate regulatory oversight. This will be viewed poorly by investors seeking assurance that oil and gas companies will be resilient in the shift to a lower carbon future.

The EPA's argument that mitigation measures for VOCs and methane under the NSPS are redundant is not entirely unreasonable. It is true that measures to reduce VOCs will also reduce methane emissions, and vice versa. However, in section IV, Summary and Rational of Proposed Actions the EPA makes it clear that the reason it is proposing to make the requirements for methane redundant is to "obviate the need for the development of emission guidelines under CAA section 111(d) and 40 CFR part 60, subpart B to address methane emissions from existing sources within the crude oil and natural gas production industry."<sup>2</sup> In other words, it would eliminate the need to create methane emissions rules for any existing facilities. At the same time, the EPA also makes it clear that standards for regulation of VOCs from existing oil and gas facilities would not be created to fill this gap. Instead, it is suggested that because VOCs are regulated as precursors to ozone and PM2.5 under CAA sections 108-110, they will be excluded from the "gap-filling" function of CAA section 111(d).<sup>3</sup> The ramifications of this statement are enormous. It essentially means that existing sources of methane – i.e. where most methane emissions currently come from – will be entirely excluded from any form of regulation.

It is hard to understate how damaging it will be to the U.S. oil and gas industry if the majority of its assets are seen to be entirely exempt from regulatory oversight of methane. This fact is why so many of the oil and gas majors have voiced their opposition to the proposed amendments and committed to follow the existing rules voluntarily. This includes Royal Dutch Shell, British Petroleum, Exxon Mobil and Equinor.<sup>4</sup> They are all cognizant of the dramatic reputational risk the proposed amendments will bring to the industry and are rightfully alarmed. They know that the performance of the rest of the industry will cast a shadow on all players, regardless of voluntary commitments.

If redundancy is the concern for the EPA, we suggest it should make methane the key pollutant addressed under the NSPS and remove VOCs from the requirements. This will allow for the regulation of existing sources of methane and VOCs, and result in reduced environmental, social and health impacts from both pollutants. It will also avoid the unnecessary reputational damage that the proposed amendments will undoubtedly incur.

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<sup>2</sup> Page 50254, "Federal Register / Vol. 84, No. 185 / Tuesday, September 24, 2018 / Proposed Rules"

<sup>3</sup> Page 50273, "Federal Register / Vol. 84, No. 185 / Tuesday, September 24, 2018 / Proposed Rules"

<sup>4</sup> <https://www.reuters.com/article/us-ceraweek-energy-emissions/shell-urges-trump-white-house-to-tighten-methane-leak-rules-idUSKBN1QT2DT>; <https://www.houstonchronicle.com/opinion/outlook/article/BP-America-chief-It-s-time-for-the-Trump-13721656.php>; <https://energyfactor.exxonmobil.com/perspectives/supports-methane-regulation/>; [https://twitter.com/Equinor\\_NA/status/1167343887037456385](https://twitter.com/Equinor_NA/status/1167343887037456385)

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Thank you for the opportunity to provide our perspective on the proposed reconsideration amendments to the Standards for New, Reconstructed and Modified Sources in the Oil and Natural Gas Sector. To be clear, we believe the proposed amendments will have an overall deleterious impact on the viability of the U.S. oil and gas sector at a time when it already faces significant uncertainty about future demand. In short, it will greatly increase uncertainty while simultaneously making it difficult for investors concerned about the portfolio impacts of climate change to maintain exposure to U.S. oil and gas companies. We ask the EPA to maintain the existing NSPS requirements and forgo efforts to rescind the standards for oil and gas facilities. If you have any questions related to this submission, please feel to contact me at 604-742-8328.

Sincerely,  
**NEI Investments**

A handwritten signature in black ink, appearing to read "Jamie Bonham", written over a light gray horizontal line.

Jamie Bonham  
Director, Corporate Engagement, NEI Investments

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