

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN

DAVID VITTER, LOUISIANA
JOHN BARRASSO, WYOMING
SHELLEY MOORE CAPITO, WEST VIRGINIA
MIKE CRAPO, IDAHO
JOHN BOOZMAN, ARKANSAS
JEFF SESSIONS, ALABAMA
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
MIKE ROUNDS, SOUTH DAKOTA
DAN SULLIVAN, ALASKA

BARBARA BOXER, CALIFORNIA
THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY
EDWARD J. MARKEY, MASSACHUSETTS

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA POIRIER, DEMOCRATIC STAFF DIRECTOR

June 11, 2015

President Barack Obama
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Obama:

We write regarding the announcement of your intention to promulgate new federal mandates regulating methane emissions from the oil and natural gas sector and to ask a series of questions enclosed. As a result of investments in new technology, participation in voluntary programs and the business incentive to capture methane, the employees of the oil and natural gas industry continue to successfully reduce methane emissions, the main component of natural gas. Since 1990, natural gas production has increased by 37 percent, while methane emissions across the entire natural gas sector declined by 17 percent.

Simply stated, the evidence is clear that these mandatory reductions are unnecessary and will be less effective than a voluntary, cooperative effort. Greater federal regulatory burdens will complicate ongoing state efforts to reduce emissions, slow domestic energy production, and, in this instance, possibly trigger even costlier and more far-reaching rules on the sector. We therefore request that you put your proposal aside, and that the Environmental Protection Agency (EPA) postpone indefinitely proposed mandates for new and modified oil and gas sources.

The success of the oil and natural gas industry in reducing methane emissions is well-documented. In its most recent greenhouse gas emissions inventory, EPA reported that, between 2011 and 2013, methane emissions declined by 12 percent; for hydraulically fractured wells, emissions dropped by 73 percent. Estimates from academic and industry sources have reached similar conclusions.

For example, researchers at the University of Texas, along with natural gas producers, an independent scientific advisory panel, and the Environmental Defense Fund (EDF), a non-profit environmental group, demonstrated that methane emissions from natural gas production have declined by 10 percent below levels identified in a similar study conducted in 2013. EDF also sponsored a recent study by Washington State University researchers, which showed that the natural gas distribution sector, as a result of system upgrades and innovation, has also reduced methane emissions.

The industry is already undertaking compliance efforts pursuant to several EPA air pollution rules first promulgated in 2012 (and which, notably, EPA was compelled to clarify and amend

toxics standard for major sources of oil and natural gas production; and an air toxics standard for major sources of natural gas transmission and storage.

Despite the ostensible purpose of these rules to reduce hazardous air pollutants (HAPs) and volatile organic compounds (VOCs), we see an attempt to regulate methane. According to EPA's own data, while the VOC and HAP rules are expected to reduce methane emissions by over 1 million tons, EPA predicts the rules will reduce less than 20 percent of that amount for VOCs and just over 1 percent for HAPs.

As EPA acknowledged, these rules – which are not even fully implemented yet – will “yield a significant environmental co-benefit by reducing methane emissions from new and modified wells.” It is therefore practically sensible to assess the results of these rulemakings, as well as ongoing voluntary and state regulatory efforts, before embarking on another series of federal mandates that could prove detrimental to job creation, energy security, and environmental progress.

Nevertheless, EPA persists in its plans for mandatory methane regulation despite notable misunderstandings concerning key facets of the industry's operations. As noted by multiple parties, EPA's five methane white papers, released in 2013, included, among other problems, numerous inaccuracies concerning data and terminology, mistaken assumptions about technologies to reduce methane and how they can be applied across producing basins. Calls to withdraw those white papers, and to collaborate with industry to correct them, went unheeded.

Now, with your announcement in January, industry faces new proposals to potentially mandate methane reductions from new and modified sources involved in nearly every aspect of oil and gas production, transmission, and delivery, including well completions, gathering and boosting stations, and compressor stations, on both public and private lands. New regulations were also announced for existing sources in ozone non-attainment areas and in states in the Ozone Transport Region. States with ozone nonattainment areas would be required to revise state implementation plans to incorporate “reasonably available control technology” standards for sources emitting VOCs.

Today, thanks to innovation by the oil and natural gas industries, coupled with practical, effective and targeted state regulation of energy production, America is now the world's largest producer of oil and natural gas, a fact that has strengthened our struggling economy at home and our geopolitical influence abroad. Yet misguided federal policies could put all that at risk. We think objective data show the industry has made remarkable progress in reducing methane emissions over the last two decades without heavy handed federal mandates. There is every reason to believe that will continue, unless restrictive federal regulations impede new technologies and cooperative state and local efforts. If the question is: “How can we continue to lower methane emissions from oil and natural gas operations?” then more federal regulations are not the answer.

In the interest of transparency and openness in federal rulemakings we ask your Administration will provide us with answers to the following questions concerning efforts to propose new mandates on the oil and gas industry.

1. EPA officials have not explained the basis for their legal opinion on whether establishing new source performance standard for methane under Section 111(b) of the Clean Air Act for new and modified sources requires a rulemaking for methane from existing sources under Section 111(d). Yet in EPA's proposed Clean Power Plan to establish performance standards for existing fossil-fueled power plants, EPA argued that when the agency "establishes NSPS for new sources in a particular source category, the EPA is also required under [Clean Air Act] Section 111(d)(1), to prescribe regulations. . . [for] existing sources in that source category that, in general, is not regulated under" other sections of the Clean Air Act.
 - Please provide us with EPA's legal opinion on whether direct methane regulations for oil and gas sources under 111(b) require regulation under 111(d).
2. EPA's methane proposal also includes proposals for new voluntary programs. Moreover, EPA, the Department of Energy, and the Pipeline and Hazardous Materials Safety Administration will collaborate to "develop and verify robust [industry] commitments to reduce methane emissions," which include "development of a regime for monitoring, reporting, and verification."
 - Does EPA intend to implement a level of voluntary emissions reductions that would preclude future mandates under Section 111(d)? If so, what is that level?
3. Section 111(a)(1) of the Clean Air Act provides that NSPS are to "reflect the degree of emission limitation achievable through the application of the best system of emission reduction (BSER) which (taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." As EPA has explained, "in determining BSER, EPA typically conducts a technology review that identifies what emission reduction systems exist and how much they reduce air pollution in practice."
 - Is EPA currently conducting such a technology review?
 - What technologies is EPA considering under its BSER determination to reduce methane emissions from new and modified oil and gas sources?
 - When EPA has completed its technology review, will the agency publish it for public comment, prior to incorporating it in a 111(b) proposal for methane?
 - Further, what does EPA consider to be "reasonably available control technology" for VOCs in non-attainment areas?
4. Environmental groups are seeking an assessment of methane's climate impacts distinct from carbon emissions. These groups have petitioned EPA to measure the "social cost of methane" as part of a pending environmental review of EPA and National Highway Traffic Safety Administration's phase-2 heavy duty truck rule. According to a news

report, if the environmental groups are successful, “development of the new measure could result in a significantly larger estimate of the benefits of curbing methane from natural gas and other sources than the social cost of carbon.”

- Please inform us whether, and if so, how, this measurement is being used to calculate and justify health benefits as part of EPA’s NSPS proposal.
 - If EPA decides to apply a “social cost of methane” in its methane rulemaking, will EPA commit to transparency as to the methodology used to create such an estimate, and provide opportunity for public comment on that methodology before EPA’s NSPS is proposed?
5. Under the Clean Air Act, states are co-regulators with significant experience and expertise for effectively managing air emissions within their borders. EPA’s rush to draft and finalize multiple new air rules inevitably precludes thoughtful engagement and consultation with the states. This federally centralized approach results in inaccurate data and economic impact assessments as well as poorly constructed rules, which hurts economic development and undermines the effectiveness of the rules.
- Please provide us a detailed accounting of EPA’s planned and previously held consultation with the states on its methane strategy.

James M. Inhofe
Chairman
Senate Committee on Environment
and Public Works

Sincerely,

Lisa Murkowski
Chairman
Senate Committee on Energy
and Natural Resources

David Vitter
United States Senator

John Barrasso
United States Senator

Jeff Sessions
United States Senator

Shelley Moore Capito
United States Senator

Roger Wicker
United States Senator