

United States Senate

WASHINGTON, DC 20510

April 6, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Pruitt:

On November 10, 2016, the Environmental Protection Agency (EPA) issued requests for information from the oil and gas industry regarding methane emissions, [Information Collection Request (ICR) No. 2548.01].¹ The information request was the result of a months-long public and interagency process and was intended to help EPA determine how best to address methane emissions from oil and gas sources under section 111(d) of the Clean Air Act. Reversing course, on March 2, 2017, your agency issued a notice withdrawing the ICR, stating that, “[t]he withdrawal is occurring because EPA would like to assess the need for the information that the agency was collecting through these requests....” (ICR No. 2548.01).² We write to seek information concerning the March 2 notice. We also seek to obtain the information and data submitted to EPA in response to the November 10 ICR.

EPA has long recognized the scientific consensus that the global warming potential of methane is well in excess of 20 times that of carbon dioxide. In 2015, EPA determined oil and gas facilities were the largest sources of methane pollution in this country and, without any controls, these methane emissions were estimated to rise more than 25 percent in the next decade. To start curbing this dangerous climate pollution, EPA issued in May 2016 performance standards under section 111(b) of the Clean Air Act (CAA) for methane emissions from new oil and gas sources. This action triggered a legal requirement for EPA to also address existing oil and gas sources under Section 111(d) of the CAA.³ That is why, at the same time EPA finalized the rule for new sources, the EPA issued the ICR to owners and operators of existing sources in the oil and gas sector in order to help inform future emissions guidelines required under section 111(d).

The information requested in the ICR concerned equipment, pollution control technologies, and methane emissions at existing oil and gas operations.⁴ The ICR was the product of informal discussions with industry, two rounds of formal public comment, and thorough review by the Office of Management and Budget (OMB). Both public comment and interagency review focused on a wide range of issues, including the usefulness of the information requested and the

¹ “Notice Regarding Withdrawal of Obligation to Submit Information” [FRL-9959-96-OAR], signed on March 2.
<https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/withdrawal-2016-information-collection-document>

² “Notice Regarding Withdrawal of Obligation to Submit Information” [FRL-9959-96-OAR], signed on March 2.
<https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/withdrawal-2016-information-collection-document>

³ Section 111(d) provides that “the Administrator shall prescribe regulations ... establish[ing] standards of performance for any existing source for any air pollutant ... to which a standard of performance under this section would apply if such existing source were a new source....”

⁴ “Notice Regarding Withdrawal of Obligation to Submit Information” [FRL-9959-96-OAR], signed on March 2.
<https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/withdrawal-2016-information-collection-document>

potential burden on owners and operators. EPA responded both to stakeholders and OMB, narrowing the burden and lowering the costs of compliance with the data request -- down to \$3,000 per covered entity.

In light of this background, including the fact that the issuance of the ICR was the culmination of an extensive stakeholder outreach process that concluded less than four months before the March 2 notice, please provide detailed information and responses to the following:

- During your confirmation process, you said you would examine the ICR currently underway and review the submitted data before making any decisions on how to move forward. Is it correct to infer from the withdrawal of the ICR that you have concluded that any data that had been, or would have been, submitted is irrelevant, and that new methane standards for existing sources are not necessary? Is it now EPA's position that it has no obligation under section 111(d) of the CAA to issue emissions guidelines for methane emissions from existing sources in the oil and gas sector subject to the NSPS promulgated in May 2016? If so, please provide copies of all scientific or legal analysis on which you based your decision. If not, why was it in the interest of EPA to stop collecting data from industry that EPA would then use to develop a rule in the most cost-effective way possible?
- The decision to withdraw the ICR causes us to doubt your commitment to adequately enforcing methane emission standards for new, reconstructed, and modified equipment that are already in place (40 CFR Part 60). What assurances can you provide that the NSPS will be enforced? Please provide us a list of the resources the agency is devoting to the enforcement of this rule.
- In "assess[ing] the need for the information that the agency was collecting through these requests..." as stated in the March 2 notice, what are the factors the EPA intends to include in the assessment, and how do they differ from the factors weighed by the agency and OMB, and addressed in public comment between May 12, 2016 and November 10, 2016? Please describe the process and schedule under which you plan to conduct this assessment and specify whether the process will include participation by states, industry, stakeholders and the public.
- EPA's March 2 notice specifically identifies a March 1, 2017 letter from nine state Attorneys General and two Governors raising the concerns about the cost of compliance with this ICR. What statements in the March 1 letter did you find persuasive in your decision to issue the March 2 withdrawal notice, and do you have, or did the Attorneys General provide, data or analysis supporting those statements? If so, please provide the data and analysis as part of your response.
- Please provide us with a list of all meetings and correspondence you had on the subject of the ICR prior to March 2, and include any information concerning any communications with any of the signatories of the March 1 letter you may have had. Please describe any oral conversations you had and provide copies of any emails or other written communications with those parties.
- Between your receipt of the March 1 letter and your issuance of the withdrawal notice the following day, how many discussions did you or your staff conduct with state Attorneys General or Governors who may have supported the ICR? If those conversations did not occur, what is your justification for making a unilateral decision without the opportunity for other states to weigh in?

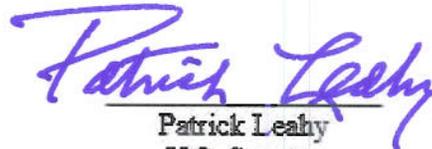
- The EPA has already collected information and data responsive to November 10, 2016 ICR. Please provide us with data that was submitted to the EPA as of March 2.

Thank you for your prompt attention to this matter. If you have any questions or if we can provide you with additional information concerning the responses we are seeking, please contact Michal Freedhoff or Joseph Goffman at the Committee on Environment and Public Works at 202-224-8832. We would very much appreciate a response by April 17, 2017.

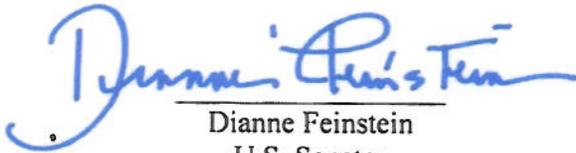
Sincerely,



Tom Carper
U.S. Senator



Patrick Leahy
U.S. Senator



Dianne Feinstein
U.S. Senator



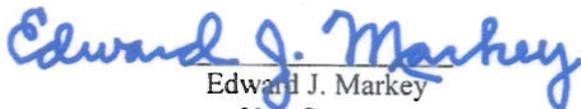
Elizabeth Warren
U.S. Senator



Kirsten Gillibrand
U.S. Senator



Sheldon Whitehouse
U.S. Senator



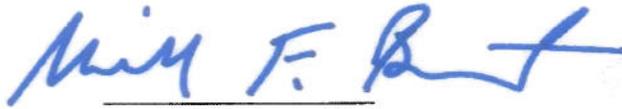
Edward J. Markey
U.S. Senator



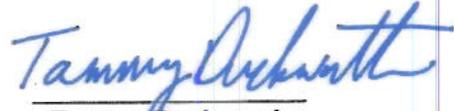
Jeffrey Merkley
U.S. Senator



Brian Schatz
U.S. Senator



Michael Bennet
U.S. Senator



Tammy Duckworth
U.S. Senator



Kamala Harris
U.S. Senator



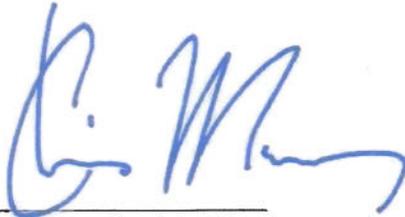
Patty Murray
U.S. Senator



Al Franken
U.S. Senator



Tom Udall
U.S. Senator



Christopher Murphy
U.S. Senator



Ron Wyden
U.S. Senator