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U.S. Environmental Protection Agency

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Washington, D.C. 20460

RE: AGA's Comments on EPA's Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing sources: Oil and Natural Gas Sector Climate Review, Supplemental Notice of Proposed Rulemaking, 87 Fed. Reg. 74702 (Dec. 6, 2022), Docket ID No. EPA-HQ-OAR-2021-0317

The American Gas Association ("AGA") appreciates the opportunity to comment on the Supplemental Notice of Proposed Rulemaking published by the U.S. Environmental Protection Agency ("EPA") on Dec. 6, 2022, as captioned above, and the accompanying proposed regulatory text ("Supplemental Proposed Rule").

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 77 million residential, commercial, and industrial natural gas customers in the U.S., of which 95 percent — more than 73 million customers — receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies, and industry associates. Today, natural gas meets more than one third of the United States' energy needs.¹

AGA and its members have a strong interest in this rulemaking because it will impact: (1) the cost and methane intensity of the natural gas product they deliver to customers (their core business); (2) their ability to implement plans to achieve low or net zero greenhouse gas (GHG) goals, which are increasingly a focus for investors, some state utility regulators and customers; and (3) operations of certain members that are upstream of the natural gas local distribution company (LDC) custody transfer station that EPA is proposing to regulate in the Supplemental Proposed Rule.

¹ For more information, please visit www.aga.org.

Summary

First, while we understand that EPA in the Supplemental Proposed Rule is continuing the longstanding exemption from this regulatory regime of operations inside and including the LDC custody transfer station, we urge EPA to explicitly address this point in the final regulatory text itself and in the section explaining applicability of the rule. EPA should confirm and clarify that this exemption continues to cover natural gas distribution, as well as intrastate natural gas transmission pipelines regulated by state utility commissions and other operations inside an LDC custody transfer station – such as where a gas utility accepts custody of natural gas or renewable natural gas (RNG) from an upstream interstate transmission pipeline or local producer.

Second, AGA supports the detailed technical comments filed in this docket by the Interstate Natural Gas Association of America (“INGAA”) regarding how the Supplemental Proposed Rule would affect certain operations upstream of LDC custody transfer stations. Some AGA member companies operate such facilities and have similar concerns as do members of INGAA. AGA supports INGAA’s comments filed in this docket on February 13, 2023, for the reasons stated therein.

Comments

I. AGA Urges EPA to Confirm and Clarify the Longstanding Exemption for Intrastate Gas Utility Operations In the Applicability Section of the Final Regulatory Text Itself, as well as the Final Rule Preamble and Final Response to Comments Document

EPA has recognized an exemption for gas distribution utility operations from new source performance standards (NSPS) for the crude oil and natural gas source category since 2016 when EPA first imposed methane NSPS to sectors of the natural gas supply chain.² Specifically, in the 2016 NSPS final rule which was reinstated by the Congressional Review Act

² In 2012, EPA published a final rule under Subpart OOOO imposing volatile organic compound (VOC) NSPS on oil production and natural gas production and processing, but it excluded operations downstream of the processing plant because pipeline quality natural gas in transmission and storage (as well as further downstream in gas utility operations) have low-VOC content. See, e.g., response to comment in preamble to final rule, 77 Fed. Reg. 49,490, 49,523 (Aug. 16, 2012) (40 C.F.R. Part 60 Subpart OOOO Final Rule). The 2012 NSPS did not regulate methane directly, although methane emission reductions were considered a co-benefit.

Resolution (CRA) signed into law by President Biden in 2021, EPA defined the source category in section 60.5430a as follows:

“Crude oil and natural gas source category means:

- (1) Crude oil production, which includes...; and***
- (2) Natural gas production, processing, transmission, and storage, which include the well and extend to, but do not include, the local distribution company custody transfer station.”³***

The 2016 rule, now reinstated by the CRA, also defined the term “local distribution company custody transfer station” as follows:

“Local distribution company (LDC) custody transfer station means a metering station where the LDC receives a natural gas supply from an upstream supplier, which may be an interstate transmission pipeline or a local natural gas producer, for delivery to customers through the LDC’s intrastate transmission and distribution lines.”

Additionally, in the 2016 Response to Comments Document accompanying the 2016 final rule, EPA clarified that the NSPS source category stops at the LDC Custody Transfer Station, and that operations inside and including the LDC custody transfer station are exempt.⁴ The agency reinforced this interpretation in multiple public briefings over the ensuing years.⁵

AGA supports EPA’s decision to maintain the reinstated 2016 rule definitions of the “crude oil and natural gas source category” and “local distribution company custody transfer station” as incorporated in Subpart OOOOa, proposed Subpart OOOOb (new sources commencing construction after Dec. 6, 2022) and the Model Rule in proposed Subpart OOOOc (guidance to states for existing sources) in the proposed regulatory text posted on EPA’s website in November 2022 and announced in the Supplemental Proposed Rule.⁶

AGA also supports EPA’s decision not to alter its longstanding interpretation of the LDC exclusion of the (now reinstated) 2016 methane NSPS as excluding gas utility operations inside and including the LDC custody transfer station. EPA explains that the NOPR published on November 15, 2021 “was intended to mitigate climate-destabilizing pollution and protect

³ 40 C.F.R. §60.5430a, as published in 2016, 81 Fed. Reg. 35824, 35,933 (June 3, 2016), and as reinstated by Congressional Review Act Resolution in 2021 (emphasis added).

⁴ See EPA’s 2016 Response to Comments, Chapter 15 Miscellaneous, pp. 15-278 – 280 (EPA response to AGA, agreeing to use the term LDC Custody Transfer Station in the final rule rather than the term city gate to define the scope of the source category as running from the well to but not including the LDC Custody Transfer Station), and 15-170-171 (EPA Response to California ARB stating that Aliso Canyon underground storage facility is exempt because it is inside the city gate –now referred to as the LDC Custody Transfer Station).

⁶ The proposed regulatory text was not published in the Federal Register.

human health by reducing greenhouse gas (GHG) and VOC emissions from the Oil and Natural Gas Industry, specifically the Crude Oil and Natural Gas source category.”⁷ EPA further explains in a footnote that:

*“The EPA defines the Crude Oil and Natural Gas source category to mean: (1) Crude oil production...; and (2) natural gas production, processing, transmission, and storage, which include the well and **extend to, but do not include, the local distribution company custody transfer station, commonly referred to as the ‘city gate.’**”*⁸

In any final rule, AGA requests that EPA make this exemption clearer and easier to find and understand in the regulatory text itself, without having to follow the context of the preamble’s footnotes, the rule’s history, and the relevant text in the multi-chapter 2016 Response to Comments Document. AGA respectfully requests that EPA explicitly confirm the LDC exemption and resolve potential ambiguity in the regulatory text by adding needed textual clarification in the proposed rules. Specifically, AGA requests that EPA write the rule’s applicability section to include reference to the source category in the proposed Section 60.5365b “Am I subject to this subpart,” as follows:

*“You are subject to the applicable provisions of this subpart if you are the owner or operator of one or more of the onshore affected facilities listed in paragraphs (a) through (i) of this section, **that is located within the Crude Oil and Natural Gas source category, as defined in § 60.5430b**, for which you commence construction, modification, or reconstruction after November 15, 2021.”*

AGA requests that this same clarifying language also be added to the proposed Subpart OOOOc applicability section at Section 60.5386c. EPA provided this needed clarity in the 2020 rule in this same logical place. Section 60.5365a of the 2020 rule entitled “Am I subject to this subpart?” explained:

*“You are subject to the applicable provisions of this subpart if you are the owner or operator of one or more of the onshore affected facilities listed in paragraphs (a) through (j) of this section, **that is located within the Crude Oil and Natural Gas Production source category, as defined in § 60.5430a, ...**”*⁹

The clarifying language shown in boldface above did not change the substantive requirements or scope of either the 2016 rule or the 2020 methane NSPS. Instead, that language helped the reader understand the scope of the rule and clarified that the methane

⁷ 87 Fed. Reg. at 74704 (emphasis added).

⁸ 87 Fed. Reg. at 74704, fn. 2.

⁹ 40 C.F.R. §60.5365a, 85 Fed. Reg. 57018 (Sept. 14, 2020) (final rule).

NSPS applied to facilities located within the Crude Oil and Natural Gas source category and not sources listed in the applicability section that are outside that source category.

As the proposed rules are currently written, EPA indicates in the purpose section that the NSPS applies to sources in the Crude Oil and Natural Gas source category, but the regulated public may not know to look in the purpose section to determine whether the rule applies to them. Most will naturally look in the section entitled “Am I subject to this subpart?” – and that is where EPA should make it clear whether they are -- or are not -- subject to the rule. AGA urges EPA to include this logical clarifying clause in the applicability sections in Subpart OOOOb and the Model Rule in Subpart OOOOc of the final rule.

AGA also urges EPA to include a clear explanation of the exemption in both the preamble to the notice of final rulemaking published in the Federal Register, in the Response to Comments Document for its final rule, and in the relevant accompanying fact sheets that the local distribution company custody transfer station is not subject to NSPS Subparts OOOOa, OOOOb, and OOOOc.

II. AGA Supports INGAA’s Comments and Requests

AGA supports the detailed technical comments filed by the Interstate Natural Gas Association of America (“INGAA”) on the Supplemental Proposed Rule, for the reasons stated in INGAA’s comments. Several AGA member companies, including some that are also members of INGAA, operate interstate natural gas transmission pipelines, underground storage facilities, and/or LNG import-export terminals that are not inside an LDC custody transfer station. These members have a direct and immediate interest in how the proposed methane NSPS and existing source guidelines could impact their facilities.

AGA appreciates the opportunity to comment. If you have any questions, please contact me or Tim Parr, AGA Deputy General at tparr@aga.org.

Respectfully submitted,

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