March 18, 2019

Via www.regulations.gov

U.S. Environmental Protection Agency
EPA Docket Center: Mailcode 28221T
Docket ID No. EPA-HQ-OAR-2013-0495
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Subject: Comments on the U.S. Environmental Protection Agency’s Proposed Amendments to the Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units (82 Fed. Reg. 65,424 (Dec. 20, 2018)).

Dear Sir/Madam:

The American Petroleum Institute (“API”) provides these comments on the U.S. Environmental Protection Agency’s (“EPA’s” or “the Agency’s”) Proposed Amendments to the Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Electric Utility Generating Units (“Proposed NSPS Amendments”). API represents over 600 oil and natural gas companies. These companies are leaders of a technology-driven industry that supplies most of America’s energy, supports more than 10.3 million jobs and nearly 8 percent of the United States economy, and, since 2000, has invested more than $3 trillion in U.S. capital projects to advance all forms of energy, including alternatives.

First, to be clear, our comments are focused on this particular proposal and not the general issue of climate change. In his January 2019 State of American Energy address, API Chief Executive Officer Mike Sommers stated that the risks of climate change are real, industrial activity around the globe impacts the climate, and America’s natural gas and oil industry is meeting the climate challenge head-on. The United States oil and natural gas industry has invested an estimated $339
billion between 1990 and 2016 toward improving the environmental performance of its products, facilities and operations—$1,045 for every man, woman and child in the United States.\(^1\) From 2000 through 2016, the United States oil and natural gas industry directly invested approximately $108 billion specifically in zero- and low-emissions technologies.\(^2\) Additionally, many API members are involved with projects that will advance carbon capture and sequestration technology, which is discussed further in these comments. Finally, thanks largely to the increased use of natural gas in power generation, carbon dioxide emissions in the United States are at their lowest level in a generation.\(^3\)

API members are potentially impacted by this proposal in many ways. First and foremost, API members produce natural gas. According to the EIA, on an annual basis, natural gas surpassed coal in 2016 as the fuel most used to generate electricity in the United States, and natural gas is projected to remain the leading source of electricity generation through 2050. In 2018, natural gas accounted for 34% of total electricity generation, and EIA projects its share to grow to 40% by 2032 and then remain between 39% and 40% throughout 2050.\(^4\)

Although EPA is not proposing changes to the current NSPS for natural gas-fired electric utility generating units (“EGUs”), API believes it is important to provide these comments to describe the vital role of natural gas in power generation and to ensure that the administrative record reflects that natural gas is reliable, abundant, affordable, and environmentally beneficial. API also wants to ensure that the NSPS recognizes the importance of combined heat and power (“CHP”) units and simple cycle combustion turbines. We believe these units should be excluded from the applicability of the NSPS based on their importance to energy efficiency, the expansion of renewable energy, and reliability.

API members are also potentially impacted by this proposal because they use power generated by EGUs subject to the NSPS, as well as by other sources. Petroleum refineries are the nation’s second-highest industrial consumer of electricity.\(^5\) Access to clean, reliable, and affordable electricity is vital to providing the nation with critical fuels, petroleum products, and chemicals in a cost-effective manner.

Finally, API members are interested in this proposal in the event that EPA relies upon this framework for a potential future greenhouse gas (“GHG”) standard applicable to an entirely distinct sector, such as the refining and petrochemical manufacturing industry. We believe there are a substantial number of differences between the refining/petrochemical manufacturing and power generation industry sectors, including the magnitude of emissions, industry economics, Federal and State incentives, transportation networks, ownership structures, profit margins, customer bases, global competition, and trading issues. Therefore, any potential subsequent regulations will need to consider these differences.

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3. DOE/EIA 0035(2019/1).
Indeed, it is API’s interest in EPA’s adoption of clear, reasonable, and legally sound regulation that has informed our advocacy in this effort, and in all prior efforts to regulate GHG emissions from EGUs. As before, API’s comments are premised on our interest in ensuring that EPA adopts regulatory approaches that are clear and consistent with the Agency’s governing statutes. API acknowledges that the risks of climate change are real and we are not arguing against all regulation of GHG emissions.

I. SUMMARY OF COMMENTS

Natural gas provides a clean, reliable, and affordable means of producing electricity. Given its abundance and affordability, natural gas is now the primary source of domestic electricity generation, and is expected to remain so for the foreseeable future. The dominant role of natural gas in electricity generation benefits consumers as well as the environment. Domestic industrial electricity prices are 40-60 percent lower than our global rivals. At the same time, natural gas-fired power production has reduced domestic CO₂ emissions to their lowest levels in decades, while providing the on-demand “dispatchable” power necessary to foster the expansion of clean but intermittent renewable power sources.

Natural gas is also a reliable and resilient power source. The physical operations of natural gas production, transmission, and distribution make the system inherently reliable and resilient.

Given these favorable attributes, API supports EPA’s proposal to refrain from amending or reopening the “Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units” which EPA promulgated in 2015 (“2015 NSPS”) for new and reconstructed natural gas-fired combustion turbines. API supported these standards for combustion turbines in 2015 and continues to do so today because, unlike the 2015 NSPS’s standards for coal-fired EGUs, EPA’s BSER analysis for combustion turbines appropriately focused on technology that was currently used in commercial operations throughout the United States.

While API continues to support EPA’s BSER analysis for natural gas-fired combustion turbines, we believe that the 2015 NSPS utilized an imperfect and potentially problematic method of delineating between “combined cycle” and “simple cycle” combustion turbines. As a result of this imprecise delineation, many simple cycle combustion turbines will likely be subject to the more stringent performance standards for combined cycle combustion turbines—standards that most simple cycle turbines cannot meet. To avoid inadvertently subjecting these important peaking power sources to standards for combined cycle combustion turbines, API recommends that EPA simply exclude all new, modified, and reconstructed simple cycle combustion turbines from NSPS applicability.

Similarly, while API continues to support the Agency’s 2015 decision to exclude CHP units from the definition of “affected EGUs,” we believe that the metrics for excluding these units is difficult to demonstrate, overly restrictive, and, as a result, will likely cause some CHP units to remain subject to the performance standards. As such, in order to avoid unnecessary regulation of these environmentally beneficial units, API recommends that EPA simply exclude all industrial, commercial, and institutional CHP units from the NSPS.
In addition to our comments about the means by which the 2015 NSPS and Proposed EGU NSPS define and regulate natural gas-fired units, API remains concerned about EPA’s overall approach to promulgating these performance standards for EGUs. We continue to believe that the CAA compels EPA to make an endangerment finding that is specific to the source category and the precise pollutant that the Agency seeks to regulate. As such, API recommends that the Agency revisit the process by which EPA determined whether the source category emits carbon dioxide in amounts that represent a “significant contribution” to endangerment of public health and welfare. Doing so can help ensure that these and any future NSPS are premised on solid and defensible legal foundations.

API is also concerned about certain aspects of the analyses underlying the Agency’s proposed determinations regarding the “Best System of Emission Reduction” (“BSER”). In particular, while API supports EPA’s proposed conclusion that partial carbon capture and storage (“CCS”) would not qualify as BSER at newly constructed coal-fired steam generating units, we do not concur with EPA’s characterizations of the feasibility of the technology or the availability of suitable sequestration sites.

Management of CO₂ emissions through utilization of CCS in a portfolio of energy technologies is viable in specific circumstances now, and will be further developed and deployed in the futures. API believes that continued growth in CCS investment demonstrate that CCS technology continues to advance and that CCS may be utilized as a viable CO₂ management option for certain projects. Nonetheless, we concur with EPA’s analysis in the Proposed NSPS Amendments that these same projects have experienced significant technical difficulties, reliability issues, and cost overruns that would have been detrimental to the projects had they not been receiving financial support from the government.

Finally, while API agrees with EPA that natural gas co-firing is not BSER, we do not agree with some of the rationales that the Agency employed in reaching this determination. For instance, it is inaccurate to suggest that natural gas co-firing diverts natural gas from more efficient NGCC units in order to achieve more modest emission improvements in less efficient coal-fired units. While NGCC units are far more efficient than coal-fired units (even with natural gas co-firing), the implication of scarcity underlying this concern is simply baseless. Natural gas is a reliably abundant source of energy in the United States.

It is similarly inaccurate for EPA to suggest that the need for more natural gas pipeline infrastructure makes natural gas co-firing a compliance option available in only a few select regions. While more natural gas pipeline infrastructure is indeed necessary, it is not credible to suggest that natural gas-based compliance options are anything less than widespread and widely available.

II. DETAILED COMMENTS

A. The Important Role of Natural Gas in Power Generation

America is now the world’s leading producer and refiner of oil and natural gas, a reality that was unimaginable just a decade ago. We have transitioned from an era of energy scarcity and dependence to one of energy abundance and security. The United States has been able to take

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