

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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April 6, 2023

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Regan,

The Committee on Oversight and Accountability is conducting oversight of the Environmental Protection Agency’s (EPA) proposed rule and supplemental proposed rule entitled, “Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review” (“the Proposed Rule”).¹ On December 4, 2022, Committee Republicans requested documents and information from the EPA to address concerns of how implementation of the Proposed Rule would negatively impact consumers and establish emissions oversight programs outside of the legislative intent of the Clean Air Act (CAA).² The EPA has not responded to that request. The EPA also ignored the request to offer an in-person option for public hearings on the Proposed Rule.³ To understand the intent, scope, and cost of the Proposed Rule, including the role of third-party activist groups in monitoring emissions, the Committee requests documents, communications, and a staff-level briefing.

On December 6, 2022, the EPA issued a supplemental proposed rule expanding the scope of the existing framework and proposing a “Super-Emitter Response Program” designed to force emissions compliance within the industry through oversight by “qualified” third-party entities.⁴ Under the proposed program, the EPA would authorize third-party entities—which could potentially include activist entities ideologically opposed to the very existence of the oil and natural gas sector—to monitor well sites, centralized production facilities, and compressor stations for “super-emitter emissions events,” defined as emissions of 100 kilograms per hour or more of methane.⁵ If the third-party monitor believes that an operator could be deemed a “super

¹ Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review, 86 Fed. Reg. 63,110 (proposed Nov. 15, 2021) (supplemented Dec. 6, 2022) (to be codified at 40 C.F.R. pt. 60).

² Letter from James Comer, Ranking Member, H. Comm. on Oversight and Reform, et al. to Michael S. Regan, Administrator, EPA (Dec. 4, 2022).

³ *Id.*

⁴ Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review, 87 Fed. Reg. 74,702 (Dec. 6, 2022).

⁵ *Id.*

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emitter,” the operator would receive notification initiating a clock of five calendar days to begin root cause analysis of the leak and ten days to complete analysis and begin corrective action.⁶

In a significant delegation of authority, the EPA would not even take part in formally notifying operators, citing “any additional role for the EPA in the notification process would unnecessarily delay mitigation of ongoing harms.”⁷ Further, “the EPA would generally not verify or authenticate the information in the third party reports prior to posting” the information on an online database, viewing such oversight as an “unnecessary task.”⁸ The delegation of enforcement duties to third-parties and the EPA’s determination that oversight is an “unnecessary task”⁹ raises serious concerns that these “Super-Emitter” determinations will be biased and improper.

The EPA’s broad interpretation of the CAA does not align with Congressional intent.¹⁰ Allowing third-party activist groups and environmental organizations the legal authority to function as deputized enforcers of an arbitrary emissions threshold is not prescribed within the CAA statute.¹¹ Further, the EPA’s own estimates suggest that the Proposed Rule will impose over \$14 billion in compliance costs onto producers.¹² Compliance costs, supply chain delays, and claim disputes will increase production costs and inevitably contribute to higher prices paid by consumers at a time of already record-high energy rates.¹³

To assist the Committee in its investigation of the Proposed Rule and its impact on industry and consumers, please provide the following documents and communications for the time period from January 20, 2021 to present unless otherwise indicated, no later than April 20, 2023:

1. All documents and communications between or among EPA staff referring or relating to the Proposed Rule;
2. All documents and communications between or among EPA staff and White House National Climate Adviser Ali Zaidi referring or relating to the Proposed Rule;
3. All documents and communications between or among EPA staff and any staff or member of the White House Office of Domestic Climate Policy referring or relating to the Proposed Rule;
4. All documents and communications between or among EPA staff and any staff or member of the National Climate Task Force, referring or relating to the Proposed Rule;

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Clean Air Act, 42 U.S.C. §7401 et seq. (1970).

¹¹ *Id.*

¹² *Supra*, n. 4.

¹³ Brook Simmons and Anne Bradbury, *Biden Administration Policies Hurting Energy Development in Oklahoma and Across the U.S.*, REAL CLEAR ENERGY (March 16, 2023).

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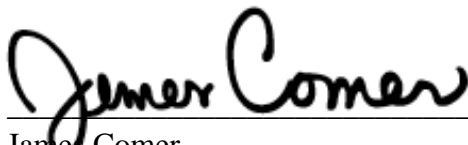
5. All documents and communications between EPA staff and nongovernment groups referring or relating to the Proposed Rule;
6. All documents and communications relating or referring to EPA's legal authority to establish a "Super-Emitter Response Program" under the CAA;
7. All documents and communications referring or relating to third-party "appropriate experience and expertise" under the Proposed Rule;
8. All documents and communications between and among EPA staff referring or relating to third-party "appropriate experience and expertise" under the Proposed Rule;
9. All documents and communications relating or referring to EPA's decision not to authenticate third-party monitor reports under the "Super-Emitter Response Program;"
10. All documents and communications relating or referring to EPA's use of "Super-Emitter Response Program" data; and
11. All documents and communications relating or referring to third-party use of "Super-Emitter Response Program" data.

Additionally, please make arrangements to schedule a briefing with Committee staff on this matter as soon as possible, but no later than April 13, 2023.

To schedule the briefing, arrange for delivery of responsive documents, or to ask any related follow-up questions, please contact the Committee on Oversight and Accountability Majority staff at 202-225-5074. Attached are instructions for producing the documents and information to the Committee.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, "any matter" at "any time" under House Rule X. Thank you for your attention to this important matter.

Sincerely,



James Comer

Chairman

Committee on Oversight and Accountability



Pat Fallon

Chairman

Subcommittee on Economic Growth,
Energy Policy, and Regulatory
Affairs

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cc: The Honorable Jamie B. Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Cori Bush, Ranking Member
Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs