



**Testimony of Sandra Ely,  
Environmental Protection Division  
Director, New Mexico Environment  
Department**

**Before the U.S. Environmental  
Protection Agency in Dallas, Texas  
October 17, 2019**

My name is Sandra Ely and I am the Environmental Protection Division Director for the New Mexico Environment Department. I am here today to express the Department's concerns and strong opposition to EPA's proposed revisions to New Source Performance Standards (NSPS) covering volatile organic compounds (VOCs) and methane emissions for new, reconstructed and modified sources in the oil and gas industry.

The revisions proposed in this rulemaking will 1) significantly damage and degrade air quality; 2) adversely impact public health in local communities and across the state as a whole; 3) create an unlevel playing field across production basins that span states, like the San Juan Basin, which crosses Colorado and New Mexico, and the Permian Basin, which crosses Texas and New Mexico; 4) create regulatory uncertainty with respect to compliance; and 5) the proposal is in direct contradiction to much of EPA's strategic plan, especially to improve air quality under the National Ambient Air Quality Standards (NAAQS). Most importantly, this proposal is not grounded in science; if it was, it would not roll back methane standards – a potent greenhouse gas that is contributing to climate change. As you know, these revisions will also hamper all states' abilities to fight climate change and reduce greenhouse gas emissions, in spite of scientific consensus.

New Mexico, under the leadership of Governor Michelle Lujan Grisham, has established a greenhouse gas emission reduction goal of at least 45% below 2005 levels by 2030. To achieve this goal, the state must and will reduce methane emissions. Methane is a potent greenhouse gas and makes up approximately 31% of New Mexico's greenhouse gas emissions profile. Methane emissions in New Mexico are dominated by the oil and gas industry, which emits approximately 64% of New Mexico's methane emissions. Federal rollbacks in regulating methane will only make it harder for oil- and gas-producing states like New Mexico to meet their climate goals. It is for this reason that the Department opposes the proposal to rescind emissions limits for methane in the production and processing segments and the alternative proposal to rescind emission limits for methane across the entire source category. These emission limits are crucial to reducing methane emissions across the industry and should remain as established in the prior rulemaking.

The Department also opposes removing EPA's obligation to develop methane emission guidelines from existing sources under section 111(d) of the Clean Air Act. There are hundreds

of thousands of existing sources that should be subject to rulemaking. There are cost-effective and efficient control strategies to reduce methane emissions from existing sources.

The Department is concerned that redefining transmission and storage as outside the legal scope of NSPS would set legal precedent limiting EPA's ability to regulate greenhouse gas emissions under Section 111 of the Clean Air Act. Aside from not making technical sense, blocking any future EPA obligation to regulate harmful greenhouse gas emissions undermines the very mission of the EPA to protect human and environmental health.

Therefore, the Department opposes the EPA proposal to remove sources in the transmission and storage segment from the oil and natural gas source category. The agency did not err when it included the transmission and storage segment within this sector, which includes sources with significant emissions. These processes and equipment are inherent to and functionally dependent upon the production and processing segments. Thus, these sources should remain part of that source category.

At the time NSPS OOOO and OOOOa became effective, the regulations were already long overdue and were fundamental to reducing emissions from new oil and gas production and processing facilities throughout the country. The long delay of these critical rulemakings had left thousands of facilities operating with no or very limited requirements and emitting uncontrolled and hazardous air pollution in communities throughout the oil- and gas-producing regions. This negligence contributed to several counties in New Mexico approaching nonattainment for ozone, which is formed from pollutants emitted across the oil and gas industry. Rollbacks in the NSPS will only make it more difficult for New Mexico to keep these counties in attainment. By taking away NSPS requirements that limit ozone precursors while ozone levels are dangerously close to exceeding the NAAQS, EPA is pushing non-attainment New Source Review (NSR) on New Mexico's oil and gas industry.

Given that New Mexico is the third largest oil-producing state in the U.S. and also the broad scope of EPA's requests for comment, the State of New Mexico requests that a public hearing be held in New Mexico. Our state will be uniquely affected by this proposal and the State should be provided an opportunity for more robust public involvement from those affected by the proposal. The State of New Mexico requests an extension to the public comment period. A single public hearing and 60-day public comment period are woefully inadequate and disappointing, given the scope and consequences of this action. Denying such a public hearing and extension to comment would contradict Goal 2 of EPA's current strategic plan, which discusses building more effective partnerships between EPA and states.

To conclude, the Department strongly recommends EPA uphold the 2016 rule in its entirety, does not agree that EPA erred in their interpretation to regulate methane in that rule and finds EPA correctly established the authority for the regulation as part of that rulemaking. In addition, we urge EPA to hold a public hearing in New Mexico and to extend the public comment period to provide affected states and the public a more robust and effective opportunity to comment.