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U.S. Environmental Protection Agency  
EPA Docket Center  
Docket ID No: EPA-HQ-OAR-2021-0317

Submitted via the Federal eRulemaking Portal: <https://www.regulations.gov>

Re: Comments on EPA's Proposed Standards of Performance for New, Reconstructed, and Modified Sources and Emission Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review; 86 Fed. Reg. 63,110 (Nov. 15, 2021)

Dear Sir/Madam:

On behalf of the Commonwealth of Kentucky and the Energy and Environment Cabinet (Cabinet), the Division for Air Quality (Division) respectfully submits the following comments in response to EPA's proposed action in the November 15, 2021 Federal Register, soliciting comments on the proposed Standards of Performance for New, Reconstructed, and Modified Sources and Emission Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review.<sup>1</sup>

The Cabinet, along with the Division, appreciates EPA's consideration of the attached comments and looks forward to continuing to work with EPA in developing a comprehensive and effective climate change policy that will achieve environmental goals without imposing unmanageable or unnecessary burdens on EPA, state and local permitting agencies, and our economy. If you have questions regarding the comments provided, please contact me at [Melissa.Duff@ky.gov](mailto:Melissa.Duff@ky.gov).

Sincerely,

Melissa K. Duff, Director  
Division for Air Quality

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<sup>1</sup> 86 Fed. Reg. 63,110 (Nov. 15, 2021).

**Kentucky Division for Air Quality Comments Regarding EPA’s Proposed Standards of Performance for New, Reconstructed, and Modified Sources and Emission Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review (86 Fed. Reg. 63,110 Nov. 15, 2021); Docket ID No: EPA-HQ-OAR-2021-0317**

**Extension of Time Needed**

Due to the extensive nature of this proposal and reduced staffing levels caused by the recent Covid-19 pandemic, the Division recommends that the EPA request these comments through an advanced notice of proposed rulemaking (ANPR) or an information collection request (ICR) to provide meaningful public participation and review of these issues. A minimum extension of at least ninety (90) days is requested.

**Proposed Rule Text not Included for Comment**

EPA’s proposed rule, without the accompanying regulatory rule text, prevents the possibility of meaningful comment and participation. The Division requests EPA publish the actual regulatory text language of the proposed rule immediately, in a separate rulemaking or re-propose for the regulatory community and states to evaluate the effect of the changes on their programs and industry. Publication of the actual regulatory language is critical for this proposed rulemaking, as it suggests extensive changes not only to multiple industry segments, but also to new, reconstructed, and modified sources, as well as existing sources, which have not been regulated previously. As published, without the proposed regulatory text, EPA has not provided sufficient notice for adequate comments. In order to meet the requirements of the Administrative Procedure Act, the Division recommends EPA publish a proposed rule that includes the actual regulatory text.

**Unfunded Mandate**

As the delegated authority in Kentucky, the Division is responsible for the implementation and enforcement of both the new and existing rules once adopted into Kentucky law. The Commonwealth has an estimated 60,000 sources that may become subject to the changes in the proposed rule. This proposed rule creates an enormous unfunded mandate for the Division, as additional funding is not proposed to accommodate these additional responsibilities.

**Emissions Inventories**

The Division concurs with EPA’s recognition “that it may not be practical to require States to compile [emissions inventory information] in the same way that is typically expected for other industries under other [emission guidelines] (EG).” 86 Fed. Reg. at 63,253.<sup>2</sup> States will need additional time and consideration to provide meaningful comment once EPA determines the appropriate procedure for purposes of compiling the emissions inventory data. The Division agrees that the typical method used for other EG is not suitable for the purposes of the proposed EG.

**Timing of State Plan Submission**

EPA did not propose a specific timeline for requiring the submission of State plans in this proposed rule. 86 Fed. Reg. at 63,255. The Division concurs that additional time for comment is needed once EPA determines the deadline for submitting State plans under a supplemental proposal. Additional time beyond 9 months after the final EG rule is published, as currently required by 40 CFR 60.23(a), is needed. Due to the extensive number of sources potentially subject to the proposed rule, the time necessary to complete state rulemaking processes, and the

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<sup>2</sup> See also 40 CFR 60.25a.

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need for collaboration with agencies that regulate oil and gas entities in Kentucky, the Division requests that EPA extend the deadline for State plans beyond 9 months.