

November 13, 2023

Administrator Michael S. Regan  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

*Submitted to the docket via email at [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).*

**Re: New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule (Docket ID No. EPA-HQ-OAR-2023-0072); 88 Fed. Reg. 33,240 (May 23, 2023)**

Dear Administrator Regan,

The National Rural Electric Cooperative Association (NRECA) respectfully submits these supplemental comments in response to the U.S. Environmental Protection Agency's (EPA, or the Agency) Proposed Rules to limit greenhouse gas (GHG) emissions from new and existing fossil fuel-fired electric generating units (EGUs).<sup>1</sup> NRECA is the national trade association representing 900 not-for-profit electric cooperatives and other rural electric utilities.

America's electric cooperatives are owned by the people they serve and comprise a unique sector of the electric industry. Electric cooperatives power one in eight Americans and serve as engines of economic development for 42 million people across 56 percent of the nation's landscape. Electric cooperatives are focused on providing affordable, reliable, and safe electric power in an environmentally responsible manner and support common sense solutions to environmental impacts.

NRECA appreciated the opportunity to comment on the Proposed Rules and filed comprehensive comments on August 8.<sup>2</sup> Since the comment deadline passed, however, new facts have emerged that warrant this supplemental filing to ensure EPA's consideration prior to the development a final rule. The facts bolster NRECA's comments that EPA's expectation that sufficient pipeline infrastructure will be developed to transport carbon dioxide (CO<sub>2</sub>) from units installing carbon capture and storage (CCS) to enable compliance with the Proposed Rules is extremely unrealistic, if not impossible.

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<sup>1</sup> New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule, 88 Fed. Reg. 33,240 (May 23, 2023) (Proposed Rules).

<sup>2</sup> Comments submitted by National Rural Electric Cooperative Association (NRECA). August 8, 2023. Available at: <https://www.regulations.gov/comment/EPA-HQ-OAR-2023-0072-0770>. (NRECA Comments).

## Developments Related to Pipeline Projects Cited by EPA

In the Proposed Rules, EPA cited planned or announced CO<sub>2</sub> pipelines as its primary justification that infrastructure will be available by the Agency's proposed compliance dates to justify its finding that CCS is adequately demonstrated and achievable.<sup>3</sup> NRECA's comments pointed out the significant barriers to CO<sub>2</sub> transport that render EPA's reliance on this technology both inadequately demonstrated and unachievable as contemplated by the proposal.<sup>4</sup> Indeed, since then, the two largest projects cited by EPA, Midwest Carbon Express and Heartland Greenway, have announced developments that further demonstrate that EPA's projection for sufficient CO<sub>2</sub> pipeline infrastructure is not grounded in reality. Together, these projects make up 86.5 percent of the 3,895 miles of planned pipelines cited by EPA.

On October 19, E&E News confirmed that Summit Carbon Solutions, the developer of the Midwest Carbon Express project, a 2,067-mile CO<sub>2</sub> transport pipeline covering parts of Iowa, Minnesota, Nebraska, North Dakota, and South Dakota, is delaying the planned start up by two years to early 2026.<sup>5</sup> The article noted permitting challenges and public opposition as likely reasons for the delay.

On October 20, Navigator CO<sub>2</sub> Ventures, the developer of the Heartland Greenway project, a 1,302-mile CO<sub>2</sub> transport pipeline covering parts of Illinois, Iowa, Minnesota, Nebraska, and South Dakota, announced that it had "decided to cancel its pipeline project."<sup>6</sup> Specifically, the company cited "the unpredictable nature of the regulatory processes involved, particularly in South Dakota and Iowa."

Together, these setbacks for the development of CO<sub>2</sub> pipelines undermine EPA's already spurious projections for the readiness of CCS as an adequately demonstrated and achievable technology under Section 111 of the Clean Air Act (CAA). They also confirm the concerns NRECA asserted in its comments filed August 8, that planned pipeline projects do not equate to infrastructure that EPA can rely on to make its determinations. NRECA specifically explained that permitting challenges and public opposition would be major obstacles to pipeline infrastructure, particularly in EPA's unworkable compliance timeframe.

Although these supplemental comments fall after the comment deadline, we ask you to exercise your discretion to consider them. The CAA specifies that "[i]f a person raising an objection can demonstrate . . . that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment . . . and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural right as would have been afforded had the information been available at the time the rule was proposed."<sup>7</sup>

It was not practicable to provide this supplemental information during the comment period, which ended on August 8, because the developments addressed in these comments were made public on October 19 and 20, respectively. Further, these comments are of central relevance to the outcome of the proposal because they relate to whether the technology and emissions limits in the proposal have been adequately demonstrated and are achievable. They further relate to reliability concerns that are a major aspect of the problem that EPA

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<sup>3</sup> See 88 Fed. Reg. 33,294 and *Greenhouse Gas Mitigation Measures for Steam Generating Units Technical Support Document*. May 23, 2023. p. 29.

<sup>4</sup> See NRECA Comments at 11-12, 15-17, 18-20, and 22-24.

<sup>5</sup> Carlos Anchondo. *CO2 pipeline company delays major Midwest project*. Energywire. October 19, 2023. Available at: <https://subscriber.politicopro.com/article/eenews/2023/10/19/co2-pipeline-company-delays-major-midwest-project-00122318>.

<sup>6</sup> See Navigator CO<sub>2</sub> Ventures Press Release: Heartland Greenway Project Update. October 20, 2023. Available at: <https://navigatorco2.com/press-releases/heartland-greenway-project-update>.

<sup>7</sup> 42 U.S.C. § 7607(d)(7)(b).

confronts in the proposal. Indeed, these supplemental comments are directly relevant to comments that NRECA raised on August 8, specifically on pages 11-12 of its comments and reiterated throughout. For these reasons, we ask that you consider this supplemental information to our prior comments, or, in the alternative convene a reconsideration procedure.

## **Conclusion**

The permitting challenges and public opposition observed in the two recent developments are not unique to CO<sub>2</sub> pipelines. As NRECA explained in its previous comments, similar obstacles will face developers of the pipeline infrastructure needed to support clean hydrogen. In addition, the setbacks described above will send signals to the market that pipeline development for these technologies is extremely risky. This signal will likely chill interest in at least some of the future pipeline development foreseen by EPA, rendering the Agency's projection of adequate infrastructure needs overly optimistic.

Accordingly, in addition to the many areas where EPA needs to reassess its Proposed Rules as pointed out in our August 8 comments, EPA needs to reconsider its proposal on the basis that the infrastructure needed to support the proposed best system of emission reduction findings for CCS and clean hydrogen co-firing are not adequately demonstrated and achievable. NRECA maintains that the Proposed Rules should be withdrawn.

Thank you for consideration of these supplemental comments. Should you have any questions, please contact Dan Bosch, regulatory affairs director, at [dan.bosch@nreca.coop](mailto:dan.bosch@nreca.coop).

Sincerely,



Dan Bosch  
Regulatory Affairs Director