

# **Business Roundtable Comments on EPA Proposed Rule Regarding Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review**

Docket ID No. EPA-HQ-OAR-2021-0317<sup>1</sup>

## Introduction

Business Roundtable believes that to avoid the worst impacts of climate change, the world must work together to limit global temperature rise this century to well below 2 degrees Celsius above preindustrial levels,<sup>2</sup> consistent with the Paris Agreement. To accomplish this goal, the United States and the international community must aggressively reduce greenhouse gas (GHG) emissions and create incentives for developing and commercializing low-carbon and zero emissions technologies. As the world's largest economy, second largest energy consumer and second largest emitter of GHGs, the United States also has an obligation to lead by example by adopting a credible, durable and comprehensive climate strategy that aims to avoid, reduce and remove emissions while increasing resilience and adaptation.<sup>3</sup>

Aggressively reducing methane emissions is a key component of the comprehensive climate strategy we believe is essential and can help the United States fulfill a climate leadership role. Business Roundtable broadly supports the objectives of EPA's proposed rule, while recognizing that continued work is needed to develop formal, well-designed methane regulations.

In addition to supporting climate action that includes methane regulation, Business Roundtable strongly believes that the foundation of sound, smart regulation is early stakeholder engagement and a careful accounting of a rule's likely costs and benefits to help ensure the rule will provide net benefits to society. We commend EPA for conducting extensive stakeholder outreach in the early stages of this rulemaking process but note that regulatory text for this proposed rule has not yet been made available, thus limiting opportunities for meaningful comment and the usefulness of the accompanying Regulatory Impact Analysis (RIA). We hope to see continued engagement and transparency, as well as a robust analysis of the compliance costs, in connection with the supplemental proposed rule that EPA has promised at the time it releases its proposed regulatory text.<sup>4</sup>

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<sup>1</sup> 86 Fed. Reg. 63110 (November 15, 2021)

<sup>2</sup> The Intergovernmental Panel on Climate Change, upon invitation of the United Nations, has determined that limiting warming to no more than 1.5 degrees Celsius compared to preindustrial levels will be necessary to avoid some of the most severe risks associated with climate change.

<sup>3</sup> Business Roundtable, *Addressing Climate Change: Principles and Policies* (September, 2020), available at: <https://s3.amazonaws.com/brt.org/Business-RoundtableAddressingClimateChangeReport.September2020.pdf>

<sup>4</sup> 86 Fed. Reg. 63115.

## Statement of Interest

Business Roundtable is an association of chief executive officers of America's leading companies working to promote a thriving U.S. economy and expand opportunity for all Americans through sound public policy. These CEO members lead companies with twenty million employees and more than \$9 trillion in annual revenues. As major employers in every state, Business Roundtable CEOs take seriously the responsibility of creating quality jobs with good wages.

For nearly 50 years, Business Roundtable members have applied CEO expertise to the major issues facing the nation. Through research and advocacy, Business Roundtable advocates policies to spur job creation, improve U.S. competitiveness and strengthen the economy.

Business Roundtable members believe that climate change poses significant environmental, economic, public health and security threats to countries around the world, including the United States. We believe corporations should lead by example, support sound public policies and drive the innovation needed to address climate change.

### Regulating Methane Emissions is an Essential Component of a Comprehensive Climate Strategy

As noted in the preamble to the proposed rule, “[h]uman activity-related methane emissions are responsible for about one third of the warming ... and constitute the second most important warming agent arising from human activity after carbon dioxide...”.<sup>5</sup> Over the short-term, methane has a warming potential 80 times the warming impact of a ton of CO<sub>2</sub>, and over the long-term, a warming potential of almost 30 times that of CO<sub>2</sub>.<sup>6</sup> Mitigating methane emissions is one of the best opportunities for reducing near-term warming.

Business Roundtable believes the United States should adopt a more comprehensive, coordinated and market-based approach to reducing emissions. While a market-based climate strategy should apply broadly across the economy, no one policy or approach can fully address climate change across such a diverse economy and such diverse sources of GHG emissions. In unique circumstances, nonduplicative, tailored policies may be more effective or administratively feasible. Targeted, smart methane regulation would help meaningfully address climate change and could present one such circumstance. Moreover, smart methane regulation is immediately actionable, given the high cost-effectiveness of many technologies and methods for preventing, monitoring, and mitigating emissions.

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<sup>5</sup> 86 Fed. Reg. 63113. See also, EPA, *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2019* (April, 2021), available at: <https://www.epa.gov/sites/default/files/2021-04/documents/us-ghg-inventory-2021-main-text.pdf?VersionId=yu89kg1O2qP754CdR8Qmyn4RRWc5iodZ>

<sup>6</sup> *Id.* at 63114.

## The Proposed Rule Demonstrates International Climate Leadership

Business Roundtable strongly supports the Administration's demonstrated leadership at COP26, where the United States and the European Union jointly announced the Global Methane Pledge to reduce methane emissions by 30% by 2030.<sup>7</sup> More than 100 nations representing over two-thirds of the global economy have now signed this global pledge.<sup>8</sup> In addition, while China is not a signatory to the Global Methane Pledge, it has agreed to develop a comprehensive plan to reduce methane emissions.<sup>9</sup>

The oil and natural gas production, natural gas processing and natural gas transmission and storage sectors are responsible for approximately 28 percent of U.S. anthropogenic methane emissions. Other sectors also have the potential to contribute to significant methane reductions, but reducing U.S. methane emissions from the oil and natural gas sector is an important step to fulfilling the United States' commitment under the Global Methane Pledge and accelerating U.S. GHG emissions reductions. While there will be up-front costs associated with reducing methane, some emissions can potentially be avoided at no net cost given current natural gas prices.

Globally, the International Energy Agency (IEA) estimates that 75 percent of oil and gas methane emissions could be avoided by adopting new technologies and work practices.<sup>10</sup> Furthermore, reducing methane emissions will carry important climate and public health benefits as noted by EPA. Smart methane regulation in the United States can help provide a roadmap for efforts in other countries, which is important to reducing worldwide GHG emissions. U.S. leadership and success in reducing methane emissions with our global partners also can serve as an important confidence-building measure that can add momentum to global efforts to address other climate-related challenges. Lastly, smart methane regulation will advance U.S. interests by strengthening the competitive positioning of U.S. natural gas supply in the global energy mix.

## Federal Regulations Must Recognize the Importance of Regulatory Compliance Flexibility and Accommodation of New Technologies

As noted in the proposed framework, technology to detect methane emissions is rapidly advancing.<sup>11</sup> The U.S. oil and natural gas industry is one of the most technologically advanced

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<sup>7</sup> White House, *Joint U.S.-EU Press Release on Global Methane Pledge* (September 18, 2021), available at: [whitehouse.gov/briefing-room/statements-releases/2021/09/18/joint-us-eu-press-release-on-the-global-methane-pledge/](https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/18/joint-us-eu-press-release-on-the-global-methane-pledge/).

<sup>8</sup> <https://www.globalmethanepledge.org/>.

<sup>9</sup> John Kerry, *COP26 Prepared the World to Beat Climate Change*, The Wall Street Journal (November 21, 2021) available at: [https://www.wsj.com/articles/cop26-prepared-the-world-to-beat-climate-change-global-warming-emissions-glasgow-11637526170?mod=Searchresults\\_pos1&page=1](https://www.wsj.com/articles/cop26-prepared-the-world-to-beat-climate-change-global-warming-emissions-glasgow-11637526170?mod=Searchresults_pos1&page=1).

<sup>10</sup> <https://www.iea.org/reports/methane-tracker-2020/methane-abatement-options>

<sup>11</sup> 86 Fed. Reg. 63147

industries in the world, and it has devoted substantial resources to developing technology to identify and remediate sources of methane emissions in advance of EPA rulemaking.<sup>12</sup> Even more effective and efficient technologies will likely emerge over time. Accordingly, and to further encourage innovation, it is important that the final rule allow flexibility for new, cost-effective technologies to be used when they are as effective as those initially prescribed.

Business Roundtable has long advocated for regulatory flexibility to encourage innovation and the development of cost-effective solutions to meeting regulatory objectives.<sup>13</sup> Prescriptive, inflexible regulations discourage the development of innovative technologies that can generate greater emissions reductions and reduce compliance costs. The proposed rule acknowledges the role of potential new advanced technologies, such as the advanced technologies being developed and implemented for methane leak detection and repair, but we encourage EPA to provide a clearer and more certain pathway for the approval of innovative technologies that can be credibly verified to be as effective as those prescribed for leak detection and monitoring. This pathway should take an outcome-and-performance based approach, as opposed to prescriptive requirements.

#### EPA is to be Commended for Early Stakeholder Outreach

Public engagement early in the regulatory process is a longstanding regulatory best practice. As Business Roundtable noted in its recent report, *Smart Regulation for the Innovation Economy*,<sup>14</sup> we have “long supported requiring agencies to publish a ‘notice of initiation’ when they commence a major rulemaking to allow stakeholders to provide agencies with suggestions about how to achieve their regulatory goals most cost-effectively. Other approaches, such as requests for information, public meetings, or Advance Notices of Proposed Rulemakings can also inform agency decision-making and have been used in recent years to assist agencies in crafting rules.”<sup>15</sup>

We appreciate the stakeholder outreach EPA has conducted to date and its recognition that economic and technical limitations exist in developing this regulation. We strongly encourage EPA to continue engaging extensively with stakeholders as it works to develop formal regulatory language that will apply to the oil and natural gas sectors.

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<sup>12</sup> 86 Fed. Reg. 63139

<sup>13</sup> Business Roundtable, *Achieving Smarter Regulation* (September, 2021), available at: [2011\\_09\\_BRT\\_Achieving\\_Smarter\\_Regulation.pdf](#)

<sup>14</sup> Business Roundtable, *Smart Regulation for the Innovation Economy* (May, 2021), available at:

[Business Roundtable Smart Regulation For Innovative Economy May 2021.pdf](#)

<sup>15</sup> *Id.* at 8. [footnote omitted]

### Presentation of Data in the RIA

Business Roundtable “believes the cornerstone of sound, smart regulation is a careful and systematic evaluation of the costs and benefits of proposed and final rules, using the best science available, and clearly disclosing the results of this evaluation, including any inherent uncertainties.”<sup>16</sup> Because of the importance of cost-benefit analysis (CBA) in the development of a sound and efficient regulatory system, we expressed concern when EPA adopted its “Interim Final Rule Rescinding the Rule on Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process.”<sup>17</sup> We further urged EPA not to abandon efforts to improve how it conducts CBA and presents data and associated uncertainty in a more transparent and accessible way.<sup>18</sup> As EPA formalizes its regulatory language, we urge the agency to ensure the RIA reflects the most up-to-date cost and benefit data based on the regulatory language. This will help ensure that the final rule is informed by the most robust data available.

### Conclusion

Business Roundtable broadly supports the objectives of the proposed rule. We believe reducing methane emissions is not only an essential part of a comprehensive climate strategy but is also vitally important for near-term progress in addressing climate change and a clear demonstration of U.S. leadership and resolve to address the climate challenge. EPA also is to be commended for the inclusive early stakeholder engagement during this rulemaking. We also appreciate EPA’s recognition of the role of innovation, but encourage the final rule to provide a clear, certain pathway for the introduction of new technology that can be credibly verified to meet regulatory objectives.

There is much work to be done to finalize applicable regulatory language and we encourage EPA to continue its robust stakeholder engagement to help ensure that final regulations are both effective and workable.

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<sup>16</sup> Business Roundtable, *Comments on EPA Interim Final Rule Rescinding the Rule on Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean air Act Rulemaking Process*, Docket ID No. EPA-HQ-OAR-2020-0044, 1. Available at [EPA-HQ-OAR-2020-0044-0735 attachment 1.pdf](#).

<sup>17</sup> *Id.* at 2.

<sup>18</sup> *Id.*