



Hess Corporation
1501 McKinney Street
Houston, TX 77010
February 13, 2023

Honorable Michael S. Regan
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Docket ID No. EPA-HQ-OAR-2021-0317

Submitted electronically to EPA-HQ-OAR- 2021-0317

Dear Administrator Regan:

Hess Corporation (“Hess”) is a United States-based leading global independent energy company engaged in the exploration and production of crude oil and natural gas. Hess is a diversified company with assets both onshore and offshore, as well as domestically and internationally. Producing, gathering, processing, and transporting crude oil and natural gas in a safe and environmentally responsible manner is the primary focus of our business. Hess supports a reasonable and holistic approach to the regulation of air emissions from upstream and midstream crude oil and natural gas sources, including direct regulation of methane. Hess considers responsible management of our environmental footprint to be an important component of our operational excellence. Given Hess’ presence in the Bakken play in North Dakota, and our ongoing interest in the development and production of domestic sources of crude oil and natural gas, Hess is uniquely situated to offer comments to the Environmental Protection Agency (“EPA”) on the impacts of the EPA’s proposed rulemakings, Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review” referred to herein as the “Supplemental Proposal.”¹

I. Introduction

Hess has a significant presence in the Bakken region of North Dakota that began nearly 70 years ago when the company drilled its first well in the state. Today, Hess has 4 rigs in operation and hundreds of wells operating across an area of roughly 446,000 acres. Hess’ midstream provider, Hess Midstream, operates a crude oil and natural gas gathering system and the Tioga Gas Plant in Tioga, North Dakota, which has the capacity to process up to 400 million standard cubic feet of natural gas per day. It also has an interest in a non-operated natural gas processing facility.

¹87 Fed. Reg. 74702 (December 6, 2022).

Hess also supports a cooperative federalism approach to the enactment of cost-effective direct regulation of methane that would preserve the states' ability to adopt and implement regulations appropriate to each state's local conditions. Since the beginning of the Bakken oil renaissance, Hess has been an active participant and leader in industry working groups and with state regulators to address air emissions and flaring. Hess works closely with the North Dakota Petroleum Council ("NDPC"), the North Dakota Industrial Commission ("NDIC"), the North Dakota Department of Environmental Quality ("NDDEQ") and others to address issues such as these that are critical to producing crude oil and natural gas in a manner protective of human health and the environment. In fact, Hess and Hess Midstream have invested more than \$3.6 billion in midstream infrastructure in North Dakota over the past 10 years, to capture and move gas to market, while helping the state meeting its flaring and emission reduction targets. Hess is also a founding and active member of the ONE Future Coalition, which worked closely with EPA to develop a voluntary flexible approach to reducing methane emissions across the natural gas value chain that is recognized by the federal government.

Hess believes that governments and civil society can work together to develop cost effective policies to both address climate change and meet the world's growing demand for reliable, affordable, and secure energy, which is essential to a just and orderly energy transition that aligns with the United Nations Sustainable Development goals. Accordingly, Hess' climate strategy is closely aligned with the recommendations of the Task Force on Climate-Related Financial Disclosures established by the G20 Financial Stability Board. We support the aim of the Paris Agreement to limit the global average temperature rise to well below 2 degrees C and have made a commitment to achieve net zero Scope 1 and 2 greenhouse gas emissions on a net equity basis by 2050.

Hess has set aggressive targets for greenhouse gas emissions reduction generally, and methane specifically. In 2020, we significantly surpassed our five year targets to reduce Scope 1 and 2 GHG emissions intensity by 25% and flaring intensity by 50% from our operated assets – reducing GHG emissions intensity and flaring intensity by 46% and 59% respectively, compared to 2014 levels. Hess also supports the Global Methane Pledge to reduce methane emissions by 30 percent below 2020 levels by 2030, which was announced by the U.S. and European Union at the 26th United Nations Climate Change Conference of the Parties (COP26) in Glasgow, Scotland. Consistent with our commitments, Hess has set a target to reduce operated methane emissions intensity to 0.19 percent by 2025, which equates to an approximate 50% reduction in our methane emissions intensity versus our 2017 baseline. As of year-end 2021, Hess has achieved a methane intensity rate of 0.18 percent. We attribute this result to a combination of our continued efforts to reduce methane emissions, which include increasing natural gas capture, reducing flaring, continuing our leak detection and repair ("LDAR") program, and replacing and retrofitting the high bleed pneumatic controllers in our North Dakota operations.

It is with this experience and from this perspective that Hess offers the following comments on the Supplemental Proposal for EPA's consideration.

II. EPA Should Allow for a Performance-Based Compliance Alternative Similar to the ONE Future Approach to Emissions Reduction

EPA's Supplemental Proposal solicited comment on intensity and performance-based options for emissions reductions. Specifically, EPA stated that "the EPA is also aware of industry led efforts to minimize methane emissions through the entirety of the value chain using the percentage of intensity or production as a metric. The EPA is soliciting comment on the potential use of intensity or production in the development of action levels, including appropriate thresholds for setting such action levels on both a short-term and long-term basis."² Hess believes that performance-based approaches offer opportunities to achieve emissions reductions that are equal to or greater than the reductions achievable by more prescriptive requirements, such as those included in the Supplemental Proposal. Accordingly, Hess requests that EPA allow performance-based approaches as an alternative to demonstrate compliance with methane emissions reductions.

A. Industry led efforts support performance-based standards

As mentioned above, Hess is a founding member of the ONE Future Coalition – the exact type of industry-led effort EPA referenced in its solicitation of comments. ONE Future is a group of companies from the natural gas industry focused on reducing methane emissions across the natural gas value chain. ONE Future adopts a performance-based approach to emissions reduction, focusing on the outcome – emissions reductions – rather than on specific technical or operational controls. The goal of ONE Future is to voluntarily lower methane emissions to less than 1 percent of gross methane production across the U.S. value chain by 2025. Peer reviewed analyses indicate that a leak/loss rate of 1 percent or less across the U.S. natural gas value chain provides immediate GHG reduction benefits. ONE Future believes that by orienting our activities toward this specific and measurable outcome, companies can achieve a sustained focus on identifying the opportunities for emissions abatement that yield the greatest benefit for the least cost. It grants individual companies the flexibility to choose precisely how they can most cost-effectively and efficiently achieve their goal, which could include deploying an innovative technology, modifying a work practice, or in some cases, replacing a high-emitting asset with a low-emitting asset.

EPA has endorsed the ONE Future Coalition's efforts through its Methane Challenge Program. Companies that join the Methane Challenge Program can choose one of two commitment options – the Best Management Practice Commitment Option or the ONE Future Intensity Commitment Option. The ONE Future Coalition's approach remains an effective means of emissions reductions and EPA should continue to endorse it through this rulemaking. In support of our GHG emissions and flaring intensity reduction targets, Hess tracks and monitors air emissions at each of our assets and undertakes a variety of emissions reduction initiatives.³ Based

² *Id.* at 74744.

³ Currently, we are evaluating, piloting or implementing the following emissions reduction opportunities: optimizing gas infrastructure, which includes additional compression capacity and gathering lines; installing oil coolers to stabilize oil and reduce tank gas flashing to flare; reinjecting natural gas liquids into the product line at compressor stations; replacing gas assisted flares with more efficient air assist flares; diverting compressor station blowdown from flares to station inlet; optimizing pipe heat trace design to lower power consumption; using grid electricity, which we mitigate through the purchase of Renewable Energy Credits, to power onshore drilling and completions activity; examining alternatives to wellhead flaring, such as utilizing natural gas for onsite power generation or conversion to liquified natural gas; examining purchase power options to supply Hess' electricity needs through renewable or carbon

on this experience, Hess believes that regulations that mandate the adoption of specific technologies, practices, and procedures for all facilities or operations of a certain type are less effective and efficient than performance-based approaches. Prescriptive requirements may not be effective in every operational situation, as conditions can vary between producing fields (*e.g.*, Permian Basin versus Bakken) and individual well sites. In addition, prescriptive requirements can quickly become outdated with rapid improvements in emissions control technology or oil and gas production equipment or methods. In contrast, performance-based standards facilitate innovation and use of alternative technologies and allow operators to create bespoke solutions to their specific site conditions, which may include use of alternative technologies, while still allowing for similar or greater emissions reductions.

B. States have successfully adopted performance-based standards that have measurably improved air quality and are driving future improvements

Performance-based approaches for emissions reductions have already been successfully implemented in oil and gas producing states. For example, the North Dakota Industrial Commission’s Order No. 24665, issued in 2014, established gas capture goals that imposed progressively higher capture requirements for associated gas. This requirement resulted in a rapid expansion of infrastructure and operational improvements leading to significant reductions in flared gas. In addition, Colorado recently established a “Greenhouse Gas Intensity Program for the Oil and Natural Gas upstream Segment.”⁴ This program requires operators to reduce preproduction and production emissions, with progressively more stringent intensity targets beginning in 2025. Gas capture goals and intensity-based programs like those adopted at the state level drive improvement while allowing flexibility for operators to implement appropriate solutions for their unique situations.

C. Federal laws and regulations support use of performance-based approaches

In addition to state initiatives, performance-based approaches to emissions reductions have been endorsed at the federal level. The bipartisan Inflation Reduction Act of 2022 (“IRA”) established a Methane Emissions Reduction Program that requires EPA to collect a “waste emissions charge” from owners or operators of certain facilities subject to 40 CFR Part 98 Subpart W (“Subpart W”) that exceed an applicable waste emissions threshold. For petroleum and natural gas production, the methane charge applies to emissions that exceed either “A) 0.20 percent of the natural gas sent to sale from such facility; or B) 10 metric tons of methane per million barrels of oil sent to sale from such facility, if such facility sent no natural gas to sale.”⁵

Notably, the IRA includes an exemption for an applicable facility subject to and in compliance with “methane emissions requirements pursuant to subsections (b) and (d) of section 111 [of the Clean Air Act]” if the EPA Administrator determines that such standards are in effect and compliance “will result in equivalent or greater emissions reductions as would be achieved by the proposed rule of the Administrator entitled ‘Standards of Performance for New, Reconstructed, and Modified Sources and Emission Guidelines for Existing Sources: Oil and Natural Gas Sector

neutral energy, thereby offsetting or eliminating our Scope 2 GHG emissions; and using advanced data analytics and machine learning to optimize fuel gas consumption.

⁴ See 5 C.C.R. § 1001-26(IV).

⁵ See 42 U.S.C. § 7436(f).

Climate Review’ (86 Fed. Reg. 63110 (November 15, 2021)), if such rule had been finalized and implemented.”⁶ The IRA’s explicit connection to emissions reductions from the proposed rule that preceded the Supplemental Proposal demonstrates the suitability of similar performance-based approaches in the Supplemental Proposal. Specifically, the reference shows that Congress has focused on the resulting emissions reductions and not the mechanism to achieve the reductions. EPA should do the same here.

Further, existing EPA regulations establish a logical framework from which to measure performance-based improvements. Subpart W provides a ready-made system for tracking and measuring emissions against prior years. Similar to the integration of Subpart W into the IRA’s Methane Emissions Reduction Program, EPA could use Subpart W data to guide performance-based standards for the Supplemental Proposal.

III. EPA Should Align Any Requirements Relating to Routine Flaring of Associated Gas with the World Bank’s Zero Routine Flaring Initiative by Using Consistent Definitions and Concepts

EPA has noted that it “is taking comment on steps the Agency should consider taking to disallow the indefinite continuation of routine flaring.”⁷ Hess agrees with EPA that flaring during production operations should be minimized. Hess recently endorsed the World Bank’s “Zero Routine Flaring by 2030” initiative and has set a target to eliminate routine gas flaring (consistent with the World Bank’s definitions) at all of our operated production sites by the end of 2025, five years ahead of the World Bank’s commitment date. To support the achievement of this objective, Hess and Hess Midstream continue to focus on the buildout of gas infrastructure in the Bakken and consider additional flare reduction initiatives globally. However, Hess is concerned that the associated gas requirements in the Supplemental Proposal unnecessarily restrict innovative, cost-effective, and performance-based approaches to emissions reductions and create regulatory uncertainty.

Hess believes that flaring of associated gas should be defined and regulated in a way that is consistent with the World Bank’s “Zero Flaring by 2030” initiative, which defines routine flaring as “flaring that occurs during the normal production of oil, and in the absence of sufficient facilities to utilize the gas onsite, dispatch it to a market or reinject it.”⁸ The World Bank approach acknowledges that the appropriate time to restrict flaring is after the well begins normal production. Gas capture needs during initial production operations can vary significantly depending on well-specific conditions, which may require flaring. In contrast, once a facility has reached a state of normal production, gas capture needs are more predictable and operators can better avoid flaring scenarios. As currently written, the restrictions on associated gas in the Supplemental Proposal apply throughout production operations, without any consideration of the different circumstances that may necessitate flaring. This lack of distinction is inconsistent with the commonsense approach adopted by the World Bank and ignores practical considerations on-

⁶ *Id.*

⁷ 87 Fed. Reg. 74702, 74780 (December 6, 2022).

⁸ See Global Gas Flaring Reduction Partnership Gas Flaring Definitions (June 29, 2016), available at <https://documents1.worldbank.org/curated/en/755071467695306362/pdf/Global-gas-flaring-reduction-partnership-gas-flaring-definitions.pdf>.

site. EPA should not apply a single approach to the treatment of associated gas during the entirety of production operations.

Further, EPA’s proposed language allows flaring for “technical or safety reasons,” but does not provide operators with an understanding of what types of activities may qualify. In contrast, the World Bank’s proposal expressly acknowledges on-site realities and excludes safety flaring and non-routine flaring. As the World Bank notes in its FAQ, “safety flaring is both small in volume and essential for the safe operation of oil and gas production facilities. Non-routine flaring is often unforeseen in nature. For example, it could be due to issues with the operation of the facility, and as such is hard to mitigate.”⁹ Examples of safety flaring include blow downs to prevent overpressure, pilot flame gas, purge/fuel gas, gas containing H₂S, and gas with high levels of volatile organic compounds other than methane.¹⁰ Non-routine flaring is typically intermittent and of short duration. It can include activities like temporary failure of equipment, failure of customer facilities that prevents receipt of gas, startup and shutdown activities, maintenance activities, process upsets, construction activities and facility modifications, and well testing, among other things.¹¹ The World Bank’s express exclusions for safety and non-routine activities better reflect operational constraints and provide more guidance to operators than EPA’s undefined “technical or safety reasons” throughout the Supplemental Proposal.

In addition, while EPA’s preamble suggests an intent to view these stages separately,¹² the plain language of 40 CFR 60.5377b applies to “each oil well with associated gas at a well affected facility.” Absent a clear distinction, this appears to conflict with the well completion obligations at proposed 40 CFR 60.5375b, which establish different requirements for flaring. Different regulatory and operational considerations apply during flowback.¹³ To avoid confusion in implementation, Hess requests that EPA clarify that the requirements of 40 CFR 60.5377b only apply during production operations and do not apply during the well completion operations covered by 40 CFR 60.5375b.

While Hess is committed to reducing routine flaring, Hess believes that EPA should align its regulations with the World Bank’s initiative, rather than what is currently proposed. This approach is consistent with the United States existing endorsement of the World Bank initiative and commitment to “provide a legal, regulatory, investment and operating environment that is conducive to upstream investments and to the development of viable markets for utilization of the gas and the infrastructure necessary to deliver the gas to these markets.”¹⁴ Adopting the World

⁹ See World Bank, *Zero Routine Flaring by 2030 (ZRF) Initiative Frequently Asked Questions and Answers*, available at <https://www.worldbank.org/en/programs/zero-routine-flaring-by-2030/qna#37>.

¹⁰ See Global Gas Flaring Reduction Partnership, *Gas Flaring Definitions* (June 29, 2016), available at <https://documents1.worldbank.org/curated/en/755071467695306362/pdf/Global-gas-flaring-reduction-partnership-gas-flaring-definitions.pdf>.

¹¹ *Id.*

¹² The preamble notes that “there are separate proposed standards for well completions, associated gas from oil wells, and gas well liquids unloading operations, all or some of which could apply to a well affected facility.” 87 Fed. Reg. 74702, 74778 (December 6, 2022).

¹³ During the initial temporary flowback period for hydraulically fractured wells, the well must be allowed to flow at certain specified rates that are greater than normal production rates for a short period of time in order to remove formation and fracturing fluids before normal well operations commence.

¹⁴ See World Bank, *Zero Routine Flaring by 2030 Initiative Text*, available at <https://www.worldbank.org/en/programs/zero-routine-flaring-by-2030/initiative-text>.

Bank's proposed definition of routine flaring is a logical next step in support of this commitment. It would also reduce the concerns discussed above and would encourage operators to continue to pursue voluntary emissions reduction initiatives, such as the World Bank's Zero Routine Flaring Initiative.

IV. If EPA Proceeds with the Proposed Associated Gas Provisions in the Supplemental Proposal, it Should Clarify the Role of Commercial Availability and Site-Specific Economic Considerations

EPA's Supplemental Proposal would limit associated gas flaring only to those situations where the owner or operator can demonstrate it is not feasible to route the gas to sales or other beneficial uses "due to technical or safety reasons." While Hess supports reductions in flaring, Hess requests that EPA clarify – preferably in the rule itself or alternatively in the preamble – that the technical bases for infeasibility include consideration of commercial availability of alternatives to pipeline injection and of site-specific economic conditions.

This clarification is not only reasonable, but also explicitly required by the Clean Air Act. A standard of performance established under the Clean Air Act must reflect "the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated."¹⁵ This unambiguously requires consideration of costs when evaluating "technical" reasons for flaring at any particular site. Consideration of costs is also consistent with the World Bank's initiative, which seeks "to implement economically viable solutions to eliminate [routine] flaring as soon as possible."¹⁶

V. EPA Should Address the Super-Emitter Response Program in a Separate Rulemaking

Hess understands EPA's intent in proposing a Super Emitter Response Program, and Hess supports community engagement in areas where it operates. However, Hess has significant legal concerns with this program, as currently proposed. The proposed program would establish an entirely new framework not seen in other New Source Performance Standards ("NSPS"). In fact, the program does not appear grounded in any technical standard, as is required for development of an NSPS pursuant to the plain language of the Clean Air Act. EPA appears to have acknowledged the legal novelty of this addition by including two alternative legal frameworks in the "Statutory Basis of Super-Emitter Program" section of the preamble to the Supplemental Proposal. Given the complexity of this new requirement and potential questions concerning its legal basis, Hess believes that the Super Emitter Response Program is best reserved for a separate notice and comment rulemaking. This would allow the public greater opportunity to evaluate the proposal and provide feedback.

Further, there is no reason the Super Emitter Response Program must be included in the Supplemental Proposal. It is not otherwise reliant on the standards of the Supplemental Proposal.

¹⁵ 42 U.S.C. § 7411(a)(1).

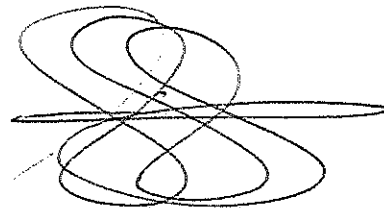
¹⁶ See World Bank, *Zero Routine Flaring by 2030 Initiative Text*, available at <https://www.worldbank.org/en/programs/zero-routine-flaring-by-2030/initiative-text>.

As EPA noted, “EPA is further proposing a super-emitter response program as a backstop to address the large contribution of super-emitters to the pollution from this sector.”¹⁷ The backstop feature of this program is not limited to proposed NSPS OOOOb/OOOOc. It also stands independently as a potential backstop for compliance with other NSPS for oil and gas sites.

VI. Conclusion

Hess places the utmost importance on safety and the environment and welcomes opportunities to protect human health and the environment by reducing emissions of air pollution. Hess welcomes continued engagement with the agency to help develop a final rule that encourages significant methane emissions reductions while also providing producers with the flexibility needed to continue supplying reliable and affordable energy to consumers. Should you have any questions about our comments, please contact Lesley Schaaff, Hess Regulatory Affairs at 202-263-1012 or lschaaff@hess.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gerbert Schoonman'. The signature is stylized with large, overlapping loops and a horizontal line crossing through the middle.

Gerbert Schoonman
Senior Vice President, Production

Cc:

Joseph Goffman, Principal Deputy Assistant Administrator
Peter Tsirigotis, Director, Office of Air Quality Planning and Standards (OAQPS)
Paul Gunning, Director, Office of Atmospheric Programs (OAP)
Karen Marsh, Sector Policies & Programs Division, OAQPS
Amy Hambrick, Sector Policies & Programs Division, OAQPS

¹⁷ 87 Fed. Reg. 74702, 74752 (December 6, 2022).