



January 16, 2025

Mr. Adam Gustafson

Mr. Joel Brubaker

Ms. Nicole Dooley

Dear Members of the U.S. Environmental Protection Agency Transition Team:

Thank you for the opportunity to share the American Gas Association's ("AGA") priorities regarding the U.S. Environmental Protection Agency. AGA represents more than 200 local energy companies committed to the safe and reliable delivery of clean natural gas to more 189 million Americans and 5.8 million businesses in all fifty states. There are more than 79 million residential, commercial, and industrial natural gas customers in the United States, of which 94 percent—more than 74 million customers—receive their gas from AGA members. Today, natural gas meets more than one third of energy needs within the United States.

AGA members are subject to regulation under a number of EPA statutes—primarily the Clean Air Act and Clean Water Act. As a result, AGA's top-priority policy recommendations for EPA largely focus on those two statutes and related actions. We look forward to working closely with the incoming administration on these and other environmental regulatory issues of importance to AGA members and the natural gas industry as a whole.

Shut Down Improper Efforts to Use the Clean Air Act to Ban Natural Gas

Over the past several years, attempts to use the Clean Air Act to enact federal natural gas bans have been on the rise. AGA urges EPA to take decisive and legally durable actions to deny these requests and send a clear signal that natural gas end uses cannot be banned under the Clean Air Act. In particular, AGA recommends that EPA take the following actions:

Deny Sierra Club rulemaking petition for heating appliance NSPS. In August 2022, the Sierra Club and 25 other groups petitioned EPA to list heating appliances as a source category under Section 111(b)(1)(A) of the Clean Air Act and to issue New Source Performance Standards ("NSPS") for that source category under Section 111(b)(1)(B).¹ As detailed in AGA's September 2022 response to the petition,² the suggested "heating appliances" category does not qualify as a source category under Section 111, and even if it did, the petition fails to demonstrate that emissions from the "category" endanger public health and welfare. Further, the NSPS requested by the petition would be unlawful for several reasons, including that it would violate the Energy Policy Conservation Act ("EPCA") and would require the kind of generation-shifting activity expressly prohibited under Section 111 by *West Virginia v. EPA*, 142 S.Ct. 2587 (2022). To date, the petition is still pending action by EPA. AGA urges EPA to deny the petition for the reasons set out in AGA's September 2022 response.

Deny California's request to incorporate the Bay Area's gas appliance ban into its SIP. In November 2024, EPA proposed to approve the Bay Area Air Quality Management District gas-fired furnace and water heater ban into California's state implementation plan ("SIP"), which would make the ban federally enforceable

¹ www.sierraclub.org/sites/default/files/Sierra%20Club%20Heating%20Appliance%20Rulemaking%20Petition.pdf.

² https://www.aga.org/wp-content/uploads/2022/12/final-cover-letter-and-aga-response_SIERRA.pdf.

under the Clean Air Act within the Bay Area.³ EPA should deny this SIP revision request because the agency may not approve a SIP revision that incorporates unlawful state measures, and the measures in question are preempted by EPCA. Disapproving this SIP revision would set an important precedent that EPA will not approve these kinds of actions, several of which are under development in other jurisdictions in California and around the country. AGA plans to submit detailed comments in opposition to the proposed rule and providing a legal basis for EPA to disapprove of the requested SIP revision.

Preserve and Improve Programs Providing GHG Data and Analysis

For years, EPA has compiled and published greenhouse gas (“GHG”) emissions data and analysis that AGA and its members rely on to demonstrate the incredible progress our industry has made in voluntarily reducing methane emissions. Having the GHG Reporting Program (“GHGRP”) and the Inventory of U.S. GHG Emissions and Sinks (“GHG Inventory”) available as centralized, commonly accepted sources of GHG data allows AGA to proudly and unequivocally demonstrate that U.S. natural gas distribution systems have reduced methane emissions by 70 percent from 1990 to 2022, bringing the distribution segment’s methane emissions down to 0.12 percent of throughput, all while the segment has grown in size.⁴ Natural gas companies depend on this data to provide information regularly sought by investors, customers, and other stakeholders—including via AGA’s Natural Gas Sustainability Initiative (“NGSI”) Methane Emissions Intensity Protocol,⁵ a voluntary methane intensity reporting tool that relies heavily on GHGRP and GHG Inventory data and methodologies. AGA encourages EPA to maintain these information repositories and make key improvements described below:

Expand the use of facility-specific emission factors and advanced measurement technologies in the GHGRP. The May 2024 revision to Subpart W of the GHGRP was a positive first step toward allowing a greater use of empirical data in GHGRP reporting.⁶ In future revisions to the program, EPA should allow for increased use of facility- and company-derived emission factors and advanced methane measurement technologies in Subpart W. AGA’s reasoning for these recommendations was shared with the agency in November 2024 comments on EPA’s request for information regarding methane quantification methodologies for Subpart W and the GHGRP at large.⁷

Address the methodological uncertainties in the GHG Inventory estimates for post-meter GHG emissions. AGA has identified several significant data gaps and uncertainties in how EPA estimates post-meter emissions (*i.e.*, emissions from residential and commercial appliances, industrial facilities and power plants, and natural gas-fueled vehicles) in the GHG Inventory.⁸ Having accurate post-meter emissions data

³ Air Plan Conditional Approval; California; Bay Area Air Quality Management District, 89 Fed. Reg. 94,633 (Nov. 29, 2024), <https://www.govinfo.gov/content/pkg/FR-2024-11-29/pdf/2024-27518.pdf>.

⁴ According to EPA’s 2024 GHG Inventory, there were 1,352,384 miles of natural gas distribution mains in 2022—an increase of 480,227 miles (55 percent) since 1990.

⁵ For more information about NGSI, please visit <https://www.aga.org/research-policy/natural-gas-esg-sustainability/natural-gas-sustainability-initiative-ngsi>.

⁶ Greenhouse Gas Reporting Rule: Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems, 89 Fed. Reg. 42,062 (May 14, 2024), <https://www.govinfo.gov/content/pkg/FR-2024-05-14/pdf/2024-08988.pdf>.

⁷ AGA and American Public Gas Association Comments on August 2024 GHGRP Subpart W RFI (Nov. 27, 2024), <https://www.regulations.gov/comment/EPA-HQ-OAR-2024-0350-0062>.

⁸ In brief, these data gaps and uncertainties include (1) a lack of consensus standard test methods and practices for measuring emissions from end-use gas appliances, (2) the use of a limited set of studies conducted on a small sample of homes as a basis for a national emissions estimate, (3) data gaps, uncertainties, and notable differences between the available studies, (4) insufficient reproducibility of methods or attention to key variables like seasonal

is essential to informing the public about the important role and benefits of natural gas in reducing GHG emissions and avoiding misconceptions based on inaccurate, misinterpreted, or misused data. AGA urges EPA to address these gaps and uncertainties in future versions of the GHG Inventory and to use the improved methodology to revise post-meter emissions data from prior years' annual GHG Inventory reports.

Maintain and Clarify Existing Clean Air Act Program Exemptions for the Natural Gas Distribution Segment

We anticipate that EPA will take action to modify several key air rules during the incoming administration, including those listed below. As EPA works to improve those regulatory programs, AGA requests that the agency take care to preserve the following existing exemptions that apply to the natural gas distribution segment:

Exclude LDC operations from the Oil and Gas NSPS / Existing Source Emission Guidelines. The March 2024 final rule amending the methane NSPS for new, reconstructed, and modified sources in the Oil and Natural Gas Source Category (40 C.F.R. Part 60, Subparts OOOOa and OOOOb) and establishing methane emission guidelines for existing sources in the source category (Subpart OOOOc) maintained the longstanding exclusion of “[f]acilities located inside and including the Local Distribution Company (LDC) custody transfer station.” AGA urges EPA to maintain this exclusion and the accompanying clarifying regulatory language regarding affected facilities.

Exclude LDC operations from the Good Neighbor Rule. The June 2023 federal implementation plan (“FIP”) addressing several states’ outstanding interstate transport obligations under the 2015 8-hour ozone national ambient air quality standards (*i.e.*, the Good Neighbor Rule) purported to exclude reciprocating internal combustion engines (“RICE”) located inside or downstream of an LDC custody transfer station—according to EPA’s Response to Comments (“RTC”) document for this rulemaking. However, the regulatory text of the FIP was insufficiently clear on this point and left too much room for misinterpreting the FIP to apply to the RICE used by some LDCs to transport natural gas through intrastate pipelines. In future rulemakings addressing the Good Neighbor Rule, EPA should clarify that RICE used for natural gas distribution are not subject to this FIP.

Exclude PHMSA-regulated facilities and equipment from RMP requirements. EPA last revised the Risk Management Program (“RMP”) regulations under Section 112(r) of the Clean Air Act in March 2024. In so doing, EPA maintained the longstanding RMP exclusion for facilities and equipment used in transportation and storage incident to transportation that are subject to the Pipeline Safety and Hazardous Materials Safety Administration (“PHMSA”) regulations at 49 C.F.R. Parts 192, 193, or 195 (or are subject to a state natural gas or hazardous liquid program that is certified by PHMSA under 49 U.S.C. § 60105). AGA urges EPA to maintain this exclusion in any future revisions to the RMP regulations.

Assert and Maintain EPA’s Primacy in Regulating GHG Emissions

During the Biden Administration, a number of federal agencies other than EPA attempted to enter the realm of regulating GHG emissions. For example, in its Gas Pipeline Leak Detection and Repair rulemaking, PHMSA proposed to regulate methane leak emissions from natural gas distribution and transmission pipelines, underground natural gas storage facilities, and liquefied natural gas (“LNG”) facilities in a manner

temperature and weather changes, and (5) inattention to the phase-out of pilot lights from many natural gas applications over the past few decades. AGA provided detailed comments to EPA on these issues in March 2022. See AGA Comments on the Public Review Draft 2022 Inventory of U.S. Greenhouse Gas (GHG) Emissions and Sinks (1990-2020) (Mar. 17, 2022), <https://www.regulations.gov/comment/EPA-HQ-OAR-2022-0001-0023>.

that would exceed PHMSA's authority as a safety regulator and, in some instances, would duplicate or potentially conflict with EPA's own methane regulations. EPA is the lead federal environmental regulator and should be working with other agencies to ensure that they do not undermine or usurp EPA's authority as the primary federal regulator of GHG emissions—particularly to ensure that regulated entities in the natural gas industry and other sectors of the economy are not subject to duplicative or conflicting requirements.

Take Regulatory Action to Improve Environmental Permitting and Advise Congress on Broader Legislative Permitting Reforms

As the incoming administration is well aware, it has become too difficult to build new energy infrastructure in America, due largely to the byzantine environmental permitting process that imposes unnecessary and detrimental delays, followed by lengthy legal challenges once new projects have actually been permitted. AGA urges EPA to work with Congress to pass meaningful and durable environmental permitting reforms, which must include associated judicial reforms to ensure that natural gas and all energy infrastructure projects can deliver the reliable, affordable energy capacity our nation needs.

In the meantime, EPA can use its existing statutory authority improve the permitting morass within its own regulatory ambit, as well as by coordinating with partner agencies to improve jointly administered permitting programs—such as the U.S. Army Corps of Engineers, which is presently working on the March 2026 reauthorization of Clean Water Act Nationwide Permits. Several EPA-specific regulatory reforms of interest to AGA are listed below:

Refine the regulatory definition of WOTUS. AGA members and other regulated entities continue to experience confusion about the scope and impact of how waters of the United States (“WOTUS”) is defined under the Clean Water Act. Although the Supreme Court clearly narrowed the scope of Clean Water Act jurisdiction in *Sackett v. EPA*, 598 U.S. 651 (2023), EPA has yet to properly conform its regulations to the *Sackett* holding. To help avoid further WOTUS-related regulatory whiplash, AGA encourages the incoming administration to make targeted revisions to the existing WOTUS rule to fully implement *Sackett*, rather than rescinding the prior administration's WOTUS rulemaking and starting over from scratch. In addition, it would be helpful for EPA to work with the Army Corps to issue guidance clarifying how existing Clean Water Act regulations should be applied, as well as rescinding confusing and problematic guidance. It is imperative that EPA Regional Offices and Army Corps Districts have clear guidance on how existing regulations should be applied, and that existing regulations are applied consistently across EPA Regions and Army Corps Districts.

Prohibit vague Clean Water Act permit conditions. AGA encourages EPA to prohibit vague, generic water quality conditions in Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permits, such as the permit limits at issue in the recently argued case *San Francisco v. EPA*, No. 23-753 (U.S.). AGA joined a group of other industry trade associations in filing an amicus brief detailing our opposition to permit conditions that hold permittees directly liable for the quality of receiving waters rather than the quality of their own discharges to those waters.⁹ Regulated entities have no way of knowing in advance whether their discharges comply with vague conditions of their NPDES permits because the quality of a waterbody often depends on numerous variables outside of an individual permittee's control, such as dozens or even hundreds of other permitted and unpermitted discharges into the same waterbody. The vagueness of certain NPDES conditions also jeopardizes permittees' security under the Clean Water Act's

⁹ See Brief of *Amici Curiae* National Mining Association, et al., Supporting Petitioner, *San Francisco v. EPA*, No. 23-753 (filed July 26, 2024), https://www.supremecourt.gov/DocketPDF/23/23-753/320921/20240726142418631_23-753%20Amicus%20Brief.pdf.

permit shield. EPA should end this practice of allowing impossibly vague permit conditions, regardless of whether the Supreme Court determines that it is prohibited under the Clean Water Act.

Rein in EPA's regulatory reach under Clean Water Act Section 401. Clean Water Act Section 401 requires that any applicant for a federal license or permit that may result in a discharge to navigable waters obtain a water quality certification from the appropriate state or tribal authority in which the discharge will originate. Section 401 certification has long been a cause of delay and uncertainty for infrastructure projects like interstate natural gas pipelines. The prior administration's September 2023 final rule revising the Section 401 regulations went beyond EPA's authority under the Clean Water Act, most notably by expanding the scope of Section 401 reviews to address the "activity as a whole," rather than focusing only on the relevant discharge to jurisdictional waters. AGA urges the incoming administration to take appropriate steps to restore the common-sense reforms advanced during the initial Trump Administration and help ensure that the Section 401 permit process cannot be used to delay the construction of critical natural gas infrastructure.

Return the ENERGY STAR Program to its Core Principles

AGA supports ENERGY STAR and urges EPA to return the program to its mission of providing "simple, credible, and unbiased information" on a product's energy efficiency in a fuel-neutral manner.¹⁰ Past proposals to eliminate natural gas appliances from ENERGY STAR have undercut the program's value and purpose. In administering the program, EPA should be following the ENERGY STAR Products Program Strategic Vision and Guiding Principles, which state that specifications should be designed to "treat fuel types separately, so that consumers may find the right products for the fuel type in their home, as most make product replacements without switching fuel types" and "generally take a technology neutral approach to helping consumers identify the most efficient products within the category."¹¹

Natural gas customers look to ENERGY STAR to help them make informed decisions about efficient home appliances, not to limit the availability of their choices in the marketplace. Eliminating the ENERGY STAR label for natural gas equipment would leave consumers with less information, potentially leading them to purchase less efficient products. Furthermore, AGA members' energy efficiency programs—which have yielded substantial energy savings and avoided GHG emissions—often rely on ENERGY STAR certification when determining eligibility for utility-provided incentives like appliance rebates. AGA urges the incoming administration to evaluate all recent and pending ENERGY STAR program revisions to ensure any changes are consistent with the program's core principles. In particular, AGA asks EPA to take the following actions:

Review the Final Version 5.0 Furnace Specifications. On January 10, 2025, EPA issued the Final Version 5.0 ENERGY STAR Furnace Specifications with a target effective date of July 31, 2026 ("Final Version 5.0").¹² In Final Version 5.0, EPA proposes natural gas furnace performance requirements of 97 percent Annual Fuel Utilization Efficiency ("AFUE") for the U.S. North and 95 percent AFUE for the U.S. South. AGA supports the regional distinction for ENERGY STAR natural gas furnaces because it reflects the reality that, in general, homes in the southern half of the United States require less heat than homes in the northern half.¹³

¹⁰ AGA supports EPA's continued use of "source energy," also referred to as "full fuel cycle," in its efficiency analysis. Source energy provides the most technically accurate method for determining overall energy consumption and energy savings, and it should be used by EPA and other federal agencies when assessing energy efficiency matters.

¹¹ ENERGY STAR® Products Program Strategic Vision and Guiding Principles (May 2012), https://www.energystar.gov/sites/default/files/asset/document/ENERGY_STAR_Strategic_Vision_and_Guiding_Principles.pdf.

¹² See ENERGY STAR, Final Version 5.0 (Jan. 10, 2025), <https://www.energystar.gov/furnace-version-5-pd>.

¹³ See AGA, Letter re: Final Version 5.0 (Dec. 19, 2024), <https://www.energystar.gov/sites/default/files/2024-12/AGA%20Comments.pdf>.

However, AGA asks EPA to revise Final Version 5.0 so the level in the U.S. South would be 92 percent AFUE effective sometime during 2026. With AFUE in the U.S. North remaining at 97 percent, the revised specification would represent a two-percentage point increase in AFUE in both regions, thus preserving significant product availability for most consumers. It also would allow for significant energy savings in the U.S. North, where the average usage is more than twice that of the U.S. South, while continuing to incentivize more efficient, cost-effective options in the U.S. South.

Withdraw the proposal to eliminate natural gas boilers from ENERGY STAR. On June 5, 2023, EPA proposed to eliminate efficient natural gas boilers from the ENERGY STAR program.¹⁴ As discussed above, AGA strongly opposes proposals to remove natural gas products from the program. Thus, AGA urges EPA to withdraw its June 2023 proposal to sunset the ENERGY STAR Residential Boilers Specification.¹⁵

Improve the Transparency of Agency Actions via EPA's Website

There is room for improvement to EPA's website, particularly with regard to the availability of documents like non-binding guidance and petitions for EPA action. EPA made some notable improvements in this area during the initial Trump Administration, particularly with the establishment of searchable databases of guidance documents, and AGA encourages EPA to expand on this progress over the next four years. Regulatory transparency is a significant issue not only for the regulated entities that currently struggle to locate all relevant pieces of the regulatory puzzle, but also for members of the public with an interest in EPA's administrative and judicial activities. For example, the Sierra Club NSPS petition discussed above is not readily available on EPA's webpage for administrative petitions to the Office of Air and Radiation, thereby hindering public participation in the administrative process for an issue of critical importance to many Americans—continued access to gas-fired heating appliances.

Thank you for your time and consideration. AGA is committed to being a resource for EPA and helping the agency develop legally durable rules that will stabilize the constant pendulum of environmental regulatory churn that upends business planning in the natural gas industry. We stand ready to work with the incoming administration to support policies that will ensure affordable and reliable energy for Americans while also protecting the environment for generations to come.

If you have any questions about this letter or would like to meet with AGA staff to discuss our environmental policy priorities, please contact Jennifer Baseman, Associate Counsel for Environment, at jbaseman@aga.org.

Sincerely,



Timothy R. Parr
Deputy General Counsel
American Gas Association

¹⁴ See ENERGY STAR Residential Boilers Discussion Guide (June 5, 2023), https://www.energystar.gov/sites/default/files/asset/document/ENERGY%20STAR%20Residential%20Boilers%20Discussion%20Guide_0.pdf?gl=1*103ldb1*ga*MTAwNjkzMjc5OS4xNjcwNDI3MzMw*_ga_S0KJTVVLQ6*MTY4NTk4ODU4Ny4yODEuMS4xNjc1OTg5MzMzASLjAuMC4w.

¹⁵ See AGA, Letter re: Removal of Natural Gas Boilers from the ENERGY STAR Program (July 7, 2023), <https://www.energystar.gov/sites/default/files/asset/document/AGA%20Comments.pdf>.