



February 13, 2023

VIA E-FILING

Michael S. Regan, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
EPA Docket Center, EPA-HQ-OAR-2021-0317

Re: Comments of the Ohio Oil and Gas Association on U.S EPA’s Supplemental Notice of Proposed Rulemaking – 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

Dear Administrator Regan:

On December 6, 2022, U.S. EPA published a supplement to its November 2021 Proposed Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources from the Crude Oil and Natural Gas source category (the “Supplemental Proposal”). 87 FR 74702. The Ohio Oil & Gas Association (“Association” or “OOGA”) submitted comments on U.S. EPA’s November 2021 Proposed Rule¹, and the Association appreciates the opportunity to submit the following comments on the Supplemental Proposal.

INTRODUCTION

The Ohio Oil & Gas Association (OOGA) is one of the largest and most active state-based oil and natural gas associations in the United States and has been the representative of Ohio’s oil and gas producing industry since 1947. OOGA’s members are involved in all aspects of the exploration, development, production and marketing of crude oil and natural gas resources in Ohio. The Association’s members often rely on OOGA as their primary source of information on industry trends, activities, tax changes, legislation and regulatory issues. OOGA frequently participates in federal and state regulatory actions affecting the oil and gas industry.

U.S. EPA’s intended purpose of the Supplemental Proposal is made clear in the very first sentence of the rule summary: “to update, strengthen, and expand the standards . . . to significantly reduce emissions of greenhouse gases and other harmful air pollutants from the Crude Oil and Natural

¹ See Comment ID # EPA-HQ-OAR-2021-0317-0803.



Gas source category.” 87 FR 74702. The Agency’s intent is carried out through several key components of the Supplemental Proposal including, but not limited to, mandating a compliance timeline back to November 2021; expanding the scope of sources subject to leak detection monitoring for fugitive emissions; establishing a “super-emitter” response program that effectively “deputizes” third-parties to monitor compliance with emissions standards; setting standards for pneumatic pumps at existing sources equivalent to the standards applicable to new and modified sources, and prohibiting flaring of associated gas; proposing a presumptive zero methane emissions standard for liquids unloading operations at existing wells; imposing well closure requirements for certain wells; and prescribing Emissions Guidelines governing existing sources (Subpart OOOOc) for States to implement.

The Association has been actively involved in U.S. EPA’s development of the regulatory framework governing emissions from oil and gas sources since the New Source Performance Standards (“NSPS”), 40 CFR Part 60, Subpart OOOO regulations were first proposed in 2011. Over the course of this decade-plus rulemaking effort, two overarching themes have remained consistent: (1) the unique aspects of the oil and gas industry’s operations and related emissions profiles do not translate to a one size fits all regulatory scheme such as U.S. EPA’s NSPS program; and (2) U.S. EPA does not fully understand the uniqueness and diversity of the emissions sources in the oil and gas industry, and this lack of understanding combined with an unwavering effort to force a square peg into a round hole (i.e. apply the traditional principles of the NSPS program to oil and gas industry) has resulted in an unreasonable and unsupported regulatory framework.

Many of the Association’s members have operations that will be subject to and directly affected by the Supplemental Proposal, with many others indirectly affected. Concerned with the impacts of misguided and arbitrary regulations on Ohio’s oil and gas industry, OOGA submits the following comments on select aspects of the Supplemental Proposal that will have the most significant negative impact on OOGA’s members, particularly small businesses. The Association hereby further supports, adopts, and incorporates by reference herein the comments submitted by the Independent Petroleum Association of America (IPAA) and supporting Producer Associations, the American Petroleum Institute (API), and the American Exploration and Production Council (AXPC).

GENERAL COMMENTS

A. U.S. EPA failed to provide sufficient time for meaningful review and comment on the Supplemental Proposal.

The Supplemental Proposal consists of nearly 150 pages of Federal Register text with hundreds of footnotes and references to several highly technical documents (some of which are also hundreds of pages long) related to the Supplemental Proposal. U.S. EPA provided just 69 days for interested parties to submit comments on the Supplemental Proposal and related material. The comment period, which spanned three federal holidays, was unreasonable as it fell far short of providing



sufficient time for meaningful review, analysis, and comment on the Supplemental Proposal. Moreover, U.S. EPA still has not addressed all of the comments submitted on its November 2021 Proposed Rule.

In an effort to alleviate the burden imposed on the Association's members due to the inadequate timeframe provided to comment on the Supplemental Proposal, the Association submitted a request to extend the comment period on January 11, 2023². The state of Ohio, along with 19 other states also requested an additional 60 days to comment on the Supplemental Proposal.³ U.S. EPA did not grant an extension.

The unreasonableness of the timeframe provided to comment on the Supplemental Proposal was further compounded by U.S. EPA's separate, albeit intrinsically related, issuance of proposed changes to the regulations implementing Clean Air Act (CAA) Section 111(d) on December 23, 2022 (the "111(d) Proposal")⁴. Certainly the first-ever Emissions Guidelines for existing sources in the oil/gas sector established under the Supplemental Proposal (Subpart OOOOc) pursuant to Section 111(d) of the CAA must be considered in conjunction with the 111(d) Proposal, as the 111(d) Proposal will ultimately govern how the Emissions Guidelines are implemented by States. U.S. EPA has acknowledged as much, indicating that it is taking an integrated approach with respect to considering comments on the two proposed rules. Yet, U.S. EPA has maintained separate comment deadlines for the Supplemental Proposal (February 13, 2023) and the 111(d) Proposal (February 27, 2023). At the very least, U.S. EPA should have granted a two-week extension to submit comments on the Supplemental Proposal such that the deadline for submitting comments on the Supplemental Proposal would be aligned with the 111(d) Proposal – i.e. February 27, 2023.

It is our understanding that U.S. EPA, in recent conversations with other national and regional industry trade groups, has indicated that it will consider comments submitted after the February 13, 2023 deadline. The Association urges U.S. EPA to do so, but questions why U.S. EPA would not do so formally via publishing notice of an extended comment period. Notwithstanding, the Association notes that if U.S. EPA considers any comments submitted after the February 13, 2023 deadline, it must consider *all* comments submitted after the deadline. With that, to the extent that IPAA, AXPC or API submit comments after the February 13, 2023 deadline, the Association supports, adopts, and incorporates by reference those comments herein.

B. The unreasonable emissions standards and related compliance requirements under the Supplemental Proposal disproportionately impact small businesses and will stifle oil and development in Ohio.

² See Comment ID # EPA-HQ-OAR-2021-0317-1645.

³ See Comment ID # EPA-HQ-OAR-2021-0317-1663.

⁴ 87 FR 79176.



One of the critical flaws of the Subpart OOOO regulations, including Subpart OOOOb and OOOOc under the Supplemental Proposal, is the failure to properly account for the declining production of oil and natural gas from a well over time, and the corresponding decline in emissions in connection with various operational changes at the well site associated with the decline in production. While initial production at a well may be significant, it will deplete as the well ages and eventually become a low production well. The failure to properly account for this change skews the fundamental basis of the entire Subpart OOOO program – i.e. the cost-effectiveness analysis for establishing the Best System of Emissions Reductions ("BSER") for each source that is subject to the program. The magnitude of this fundamental flaw is most significant in the resulting Emissions Guidelines (Subpart OOOOc) for existing sources, which have a disproportionate and detrimental impact on low production wells and small businesses.

A significant portion of the approximately 62,000 wells in Ohio meet the definition of a low production well (i.e. produce at or below 15 barrels of oil equivalent per day) and, in fact, produce far less. About 60% of the wells in Ohio involve private contractual relationships between the producer and landowner to take a limited amount of natural gas for the lessor's private domestic use. This means that there are approximately 36,700 rural Ohio families who have direct access to natural gas because of operating oil and gas wells. Many of these wells are owned by a landowner or a small business. The Supplemental Proposal is replete with stringent emissions standards and related compliance requirements that are impractical, technically infeasible, cost-prohibitive, overly burdensome, and otherwise unreasonable. The impacts of such requirements are disproportionately borne by small businesses and operators of low production wells.

The fundamental flaw in U.S. EPA's Subpart OOOO regulations (discussed above) has resulted in a misguided BSER determination for existing sources that effectively regulates existing sources the same as new and modified sources. That is, the Supplemental Proposal is based on the assumption that existing facilities can be retrofitted at a reasonable cost to meet the same emissions standards applicable to new and modified sources. U.S. EPA made a gross miscalculation in this regard. Many of OOGA's members lack the financial capital to retrofit existing sources with the equipment necessary to comply with the emissions standards under the Supplemental Proposal and/or do not have technical staff and legal advisors to assist with understanding and complying with the myriad of requirements that they will be subject to, including AVO inspections, conducting root cause analyses and fixing leaks, recordkeeping and reporting (not to mention the significant costs associated with conducting those activities). Even assuming operators *could* pay for costs to retrofit, as a well approaches the end of its useful life, there is a point at which it is no longer economic to make the necessary retrofits. Whereas U.S. EPA assumed compliance to be feasible and cost-effective, the reality is that the stringent emissions standards under the Supplemental Proposal will render many existing operations, particularly low production wells, economically infeasible and drive many small business and operators of low production wells out of business, including landowners of the approximately 5,300 wells that provide oil/gas to single-family residences in Ohio.



Small businesses being forced to “close shop” presents a scenario that is inherently contrary to the Supplemental Proposal – i.e. there may be thousands *more* abandoned wells that may or may not be properly closed. Notwithstanding the challenges that small businesses face and the consequences related thereto, the Supplemental Proposal will threaten the continued viability of the oil and gas industry as a whole in Ohio. The economic ramifications of a rulemaking that potentially halts further development of oil and natural gas in Ohio cannot be ignored as the industry generated approximately \$97 Billion in investments in Ohio since 2011⁵, and provides nearly 200,000 Ohio jobs⁶. Relatedly, the areas in which the oil gas industry predominantly operates and, in turn, provides necessary and critical services – i.e. overburdened and underserved rural communities (e.g. southeast Ohio) – are the areas that will suffer the economic consequences stemming from the Supplemental Proposal. This effectively results in “inverse” environmental justice in these communities. That is, rural families and farmers whose homes are heated by the oil/natural gas supplied directly from a production well lose the direct energy source when wells are closed, and are forced to bear the costs of switching to other energy sources; jobs are lost; tax revenues are lost; and investment in critical infrastructure comes to a halt.

The Association also notes that the Emissions Guidelines will impose a significant burden on Ohio EPA, the state agency that will be primarily responsible for implementing the Emissions Guidelines. Specifically, Ohio EPA will be responsible for the permitting, compliance/enforcement actions, and other planning efforts for the 62,000 oil and natural gas wells in Ohio. The costs and resources (e.g. administrative staff, office space, and training) necessary to implement the Emissions Guidelines exceed Ohio EPA’s current budget and personnel several times over. Add the 2-year compliance timeframe on top of everything else, and a herculean order becomes an almost certain impossibility.

C. The proposed compliance date of November 15, 2021 is unwarranted.

The Association objects to U.S. EPA’s proposed compliance date of November 15, 2021, particularly given that regulatory text was unavailable as of the proposed compliance date. U.S. EPA maintaining the November 15, 2021 compliance date is unwarranted and will result in companies having a large back-log of new and modified sources that may be subject to Subpart OOOOb. For example, the storage vessel affected source was expanded from individual tanks to tank batteries under the Supplemental Proposal. If such new/modified storage vessel sources dating back to November 15, 2021 are subject to Subpart OOOOb, companies will need additional time to meet the initial compliance requirements. The Association also notes that applicable compliance date of November 15, 2021 will likely result in supply chain shortages.

SPECIFIC COMMENTS

⁵ https://cdn.bfldr.com/AHJE351Z/at/jrb837bsbpc3gn3x5zksgtpc/Shale_Dashboard_Q3Q4_2021_FINAL_45_.pdf

⁶ <https://ohiolmi.com/docs/OhioShale/2021AnnualShale.pdf>



A. BSER for fugitive emissions monitoring is unsupported and overly burdensome.

The Supplemental Proposal makes several changes to the November 2021 Proposed Rule, which are driven by the definition of the “fugitive emissions component” affected/designated facility. Fugitive emissions component means “ any component that has the potential to emit fugitive emissions of methane or VOC at a well site, centralized production facility, or compressor station, including valves, connectors, pressure relief devices, open-ended lines, flanges, covers and closed vent systems not subject to §60.5411b (closed vent systems), thief hatches or other openings on a storage vessel not subject to §60.5395b (storage vessels), compressors, instruments, meters, and in yard piping.” From this definition, U.S. EPA establishes a matrix consisting of four sub-categories fugitive emissions facilities with corresponding monitoring requirements that vary by method and frequency depending on the number of wells and associated production equipment.

The Association appreciates U.S. EPA’s creation of a less rigid fugitive monitoring program that is more aligned to the varying emissions profiles of source configurations typically utilized in the oil and gas industry. OOGA also acknowledges the Agency’s proposal to require quarterly audio, visual, and olfactory (AVO) inspections, and supports the ability to use AVO as opposed to optical gas imaging (OGI) at single wellhead only well sites. However, the Association objects to other aspects of the fugitive monitoring program under the Supplemental Proposal.

As an initial matter, the Supplemental Proposal expands fugitive emissions monitoring to all oil and natural gas well sites. The fugitive emissions inspections, be it AVO or OGI, are labor-intensive and expensive. Thus, the requirements unduly burden small business and operators of low production wells with nominal emissions reductions in return. The Association urges U.S. EPA to retain the exclusion of low producing well sites that was provided in the November 2021 Proposed Rule. At the very least, U.S. EPA should create a fifth (intermediate) source category via the expansion of the components in the “small well site” facility, including increasing the count of major production equipment from one to two, to further differentiate the requirements applicable to the lowest of the low production wells and ensure that higher producing, albeit still “low production”, wells are not regulated as a “large well site”. The Association notes that a separator and storage tank minimum necessities for well site operations. Limiting a “small well site” to only one of those pieces of equipment inherently – albeit inaccurately – disqualifies true small well sites from the “small well site” classification. AVO inspections should apply to this “intermediate” source category.

Next, as discussed above, U.S. EPA’s BSER for fugitive emissions fails to properly account for the impact of declining production reducing the potential magnitude of emissions from production facilities. This results in inflexible and, thus, unreasonable monitoring requirements under the Supplemental Proposal. The Association requests that U.S. EPA provide for flexibility in the fugitive monitoring requirements such that as production declines and a well site moves from the large well facility category to the small well facility category, the requirements applicable to the



facility should change accordingly to the appropriate facility status – i.e. single well site, multiple well site, small well site or intermediate well site.

Finally, the Association suggests that fugitive monitoring matrices should be based on production rates (rather than flawed component counts) with adjustments, as appropriate, to account for onsite equipment.

B. The Ohio Department of Natural Resources already administers a comprehensive regulatory program governing well plugging and abandonment. U.S. EPA’s proposed well closure requirements are superfluous and unwarranted.

The Association strongly opposes U.S. EPA’s involvement in and regulation of the plugging and abandonment of oil and gas wells. As an initial matter, any U.S. EPA regulation of the plugging and abandonment of wells is superfluous and, thus, unwarranted, as state agencies already perform this function. In Ohio, the Ohio Department of Natural Resources, Division of Oil and Gas (ODNR) is the agency vested with statutory authority to regulate all aspects of the permitting, location, and spacing of oil and gas wells and production operations, including, *specifically*, the plugging and abandonment of wells in Ohio.⁷ ODNR’s regulatory program governing the plugging and abandonment of wells in Ohio is robust and adequately addresses the concerns that U.S. EPA raised regarding the need for a well closure program in the Supplemental Proposal. As noted in the Association’s comments on the November 2021 Proposed Rule, notable provisions of Ohio law and ODNR’s regulations include the following:

- Ohio law imposes obligations on well owners that prevent wells from falling into disrepair. R.C. 1509.12(A) provides that: (1) No person shall construct or operate a well, that causes damage to other permeable strata, underground sources of drinking water, or the surface of the land or that threatens the public health and safety or the environment; and (2) No owner of a well shall permit a well to leak fluids or gases.
- Furthermore, if a well is discovered to be defective and/or inadequately constructed, “the person that owns the well or that is responsible for the well shall notify the chief of the division of oil and gas resources management within twenty-four hours of the discovery, and shall immediately repair the casing, correct the construction inadequacies, or plug and abandon the well.” R.C. 1509.12(A)(3).
- Ohio law prohibits wells from remaining idle/dormant for extended periods of time. R.C. 1509.062(A)(1) states, “The owner of a well that has not been completed, a well that has

⁷ See Ohio Revised Code (RC) 1509.02. "Production operation", as defined in R.C. 1509.01(AA), means “all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production of oil, gas, or other mineral resources that are regulated under this chapter, including operations and activities associated with site preparation, site construction, access road construction, well drilling, well completion, well stimulation, well site activities, reclamation, and plugging.”



not produced within one year after completion, an existing well that is not a horizontal well and that has no reported production for two consecutive reporting periods as reported in accordance with section 1509.11 of the Revised Code, or an existing horizontal well that has no reported production for eight consecutive reporting periods. . . shall plug the well in accordance with section 1509.12 of the Revised Code,⁸ obtain temporary inactive well status for the well in accordance with this section, or perform another activity regarding the well that is approved by the chief of the division of oil and gas resources management.”

- A well may not approved for temporary inactive status unless ODNR “determines that the well that is the subject of the application poses no threat to the health or safety of persons, property, or the environment.” R.C. 1509.062(D). If approved, temporary inactive status expires 1 year after the date of approval. R.C 1509.062(D).
- Detailed plans must be prepared and implemented to prevent emissions from temporary inactive wells. Upon approval of temporary inactive status, R.C. 1509.062(C) states that “the owner shall shut in the well and empty all liquids and gases from all storage tanks, pipelines, and other equipment associated with the well. In addition, the owner shall maintain the well, other equipment associated with the well, and the surface location of the well in a manner that prevents hazards to the health and safety of people and the environment. The owner shall inspect the well at least every six months and submit to the chief within fourteen days after the inspection a record of inspection.” Additionally, an application to renew a well’s temporary inactive status must include “a detailed plan that describes the ultimate disposition of the well, the time frames for that disposition, and any other information that the chief determines is necessary.” ORC 1509.062(D).
- Ohio law also requires well owners to establish financial assurance for wells approved for temporary inactive status. Specifically, Ohio law authorizes ODNR to require the owner to provide a surety bond in an amount up to \$10,000 for each of the owner’s wells that has been approved for temporary inactive stratus. This bond is separate and in addition to the bond that is required in conjunction with a permit to drill a new well that is conditioned on compliance with site restoration requirements and plugging requirements. R.C. 1509.07(B)(1).

As discussed above, ODNR is the state agency responsible for regulation all aspects of oil and natural gas production operations, including the plugging and abandonment of oil/gas wells, in Ohio. ODNR’s existing statutory authority and regulatory framework governing abandoned wells is robust, and adequately addresses U.S. EPA’s concerns regarding such wells. The Association,

⁸ To ensure wells are properly plugged to prevent risk to human health and the environment, Ohio law requires any person plugging a well to first obtain a permit to the plug the well (R.C. 1509.12), and ODNR regulations specify procedures, methodologies and performance criteria that must be satisfied (Ohio Administrative Code Chapter 1501:9-11).



whose members operate in several other states, notes that other states have programs regulating abandoned wells similar to ODNR. Accordingly, U.S. EPA need not and should not insert itself into this state-led regulatory arena.

Should U.S. EPA proceed with the redundant well closure requirements under the Supplemental Proposal, the Association offers the following comments on certain elements of U.S. EPA's proposed well closure requirements. First, the applicability of the well closure requirements being triggered by the "cessation" of production operations is ambiguous. A cessation in production does not necessarily mean that a well is destined for or otherwise needs to be plugged and abandoned. A *temporary* cessation in production is quite common in the oil and gas industry and occurs for a variety of reasons including mechanical evaluations, reworking or repair of surface facilities, and to comply with government orders. The Association requests that the word "cessation" be struck from the rule, and that U.S. EPA clarify that the development and implementation of a well closure plan be required only for wells planned for plugging and abandonment. Second, the plugging and abandonment of one well at a multi-well site should not require the plugging and abandonment of all wells at the well site. Finally, U.S. EPA should allow for scheduling flexibilities in completing the well closure activities and eliminate the requirement to conduct an optical gas imaging to confirm no emissions from the well post-closure.

C. The proposed approach for utilizing alternative leak detection technologies is unworkable and lacks support.

The Association appreciates U.S. EPA authorizing alternative leak detection technologies under the Supplemental Proposal. However, the approach for implementing such alternative technologies is based on a matrix of requirements that incentivizes operators to not use any alternative technologies. That is, the Supplemental Proposal allows the use of alternative technologies in place of OGI but with increased monitoring frequencies. U.S. EPA's approach lacks justification and may not be cost effective. The Association also notes that the technology certification process is unworkable (another disincentive) and that the basis for the continuing monitoring thresholds lacks justification.

D. The regulatory framework for the proposed Super-Emitter Response Program needs further development.

Under the Supplemental Proposal, a "super-emitter emissions event" is defined as quantified emissions of 100 kg/hr or greater of methane. To address these significant emissions events, which U.S. EPA acknowledges are not expected to occur under normal operating scenarios, U.S. EPA proposes to authorize third parties to detect "super-emitter emissions events" through the use of remote-sensing technologies including aircraft flyovers, mobile monitoring platforms, and satellites and, upon analyzing the data and confirming a super-emitter event, to notify operators (and U.S. EPA) of the event. Once an operator has been notified, the operator is required perform a root-cause analysis and take corrective actions to address the emissions source at the site. The



Association has several concerns with the Super-Emitter Response Program under the Supplemental Proposal.

First, the establishment of the Super-Emitter Response Program exceeds U.S. EPA's authority under the CAA. Congress has already spoken to the "deputizing" of third parties for purposes of enforcing the requirements of the CAA - i.e. the CAA Citizen Suit provision (42 U.S.C 7604). Nowhere in the CAA did Congress authorize the Super Emitter Response Program that is contemplated under the Supplemental Proposal.

Notwithstanding U.S. EPA's questionable legal authority for establishing the Super-Emitter Response Program, the regulatory framework for the program needs further development. The Association suggests that U.S. EPA initiate the rulemaking process to approve each technology used by the third-party detectors so that industry has an opportunity to comment on the merit of each technology. The Supplemental Proposal does not provide adequate detail for stakeholders to provide comments as it only identifies the technology by name with no information about the technology and its limitation. Similarly, U.S. EPA should develop detailed criteria for the certification of qualified third-party detectors for public review and comment. The Association also requests that U.S. EPA address/clarify the following issues:

- Notification by the third-party detector to the operator must be in writing, and the contents of the notification must be sufficiently detailed for the industry and the general public to verify or reproduce (where possible) the underlying data used for the alleged super-emitter event.
- Events related to permitted or permissible releases (e.g. maintenance).
- The notification must be made as soon as practicable, but no later than 3 days after the alleged super-emitter event.
- Third-parties breaking any laws should be immediately decertified and removed from U.S. EPA's list of approved qualified third party detectors.
- Any technology used to identify a super-emitter event must be capable of quantifying the methane emissions rate without reliance on an assumed gas composition.

Finally, the Association is particularly concerned about the implications of "false positive" super-emitter events. The occurrence of a "false positive" can be due to several factors, including faulty equipment, insufficient and/or unreliable data, and incorrectly identifying the super-emitter source. Regardless of the cause, "false positive" super-emitter events will result in operators unnecessarily incurring significant costs, and also stigmatize the accused operator and the industry as a whole. The Association urges U.S. EPA to implement appropriate safeguards against the occurrence of "false positive" super-emitter events.

E. The proposed "zero emissions" standard for pneumatic controllers is unreasonable and lacks support.



The Supplemental Proposal requires all pneumatic controllers and pumps to have methane and VOC emissions rates of zero. While the Association agrees that routing emissions from natural gas-driven pneumatic devices back to a process is one method of achieving the zero-emissions standard, the Association strongly disagrees that this BSEER is reasonable from a cost-effectiveness perspective. The comments submitted by IPAA and API include detailed calculations illustrating how the cost per ton of emissions reduced from pneumatic controllers and pumps exceeds U.S. EPA's reasonableness threshold, and the Association reached the same result by applying Ohio-specific data inputs in those calculations. Notably, the application of the same zero emission standard to existing sources under Subpart OOOOc will require existing sources to retrofit each and every pneumatic controller. Some facilities may even require complete reengineering and design in order to comply with these standards. Such compliance measures will likely be cost prohibitive, particularly for small business and operators of low production wells. There are also a multitude of technical limitations, such as low pressure, that make each proposed compliance option infeasible.

The Association urges U.S. EPA to consider alternative BSEER, including but not limited to allow for low and properly functioning intermittent-bleed controllers in compliance with Subpart OOOOa, based on site-specific cost-effectiveness evaluations that account for the facility's equipment, geographic location, and other unique operational conditions. The properly functioning pneumatic controllers should be assessed through AVO inspections. The Association also requests that U.S. EPA align the requirements for pneumatic controllers with the requirements for pneumatic pumps including, specifically: allowing emissions to be routed to a control device if it is technically infeasible to route to a process; excluding natural gas pneumatic controllers that operate for less than 90 days per calendar year from the affected facility. Such alignment is needed to allow for the use of temporary equipment during flowback operations and initial production stages when air supply is typically not in use, and to allow for the use of natural gas as a backup power source in the event of power outages (generator or grid). Further, temporary gas use allows for the safe continuation of pneumatic operations without becoming an affected facility.

F. The proposed emissions standards for associated operations are unreasonable.

Under the Supplemental Proposal, associated gas cannot be routed to a flare or other combustion device unless the owner or operator demonstrates that each of the four compliance options are infeasible due to technical or safety reasons, and that demonstration is approved by a certified professional engineer. This is a significant change from the November 2021 Proposed Rule that places additional burden on operators which may be unworkable as a practical matter. The Association also suggests that the definition of "associated gas" should be limited to gas generated in the first stage of separation.

With respect to the emissions standards for liquids unloading, the Association notes that the preamble to the Supplemental Proposal allows for economic feasibility determinations when



utilizing liquids unloading methods that vent to the atmosphere: “Additionally, for wells that utilize methods that vent to the atmosphere, the proposed rule would require: “(1) Documentation explaining why it is infeasible to utilize a non-venting method due to technical, safety, or economic reasons.”⁹ However, the rule text makes no mention of economic feasibility, limiting infeasibility determinations to technical and safety-related justifications. This apparent limitation on feasibility determinations in the rule text is unreasonable and renders the infeasibility demonstration impractical. A technical feasibility review can take a significant amount of time to complete. The review time would result in lost production due to the well having to be shut in. In order for an operator to keep pace with required well unloads, significant additional staffing would be needed to complete the required reviews. Additionally, there are very few scenarios that an engineer or qualified professional would certify a technical or safety infeasibility justification. Without a certified justification and allowance for unloading without a zero emissions method, wells would ultimately just be shut in until the well rebuilt pressures to produce on its own, resulting in lost production or the well never returning to production. The Association urges U.S. EPA to revise the rule text to include economic infeasibility as a justification for needing to use a non-zero emitting liquids unloading method. This would provide necessary additional opportunities for justifying the use of a non-zero emitting liquids unloading method, especially for low producing wells. The Association also suggests the Supplemental Proposal be revised such that recordkeeping and reporting of non-venting event are not required.

G. The proposed control device testing and monitoring requirements are unworkable.

The Association is concerned that the proposed testing and monitoring requirements for control devices are unworkable. Enclosed Combustion Devices (ECDs) are commonly used at oil and natural gas production facilities that have associated storage tanks. These ECDs control VOC and methane emissions that result from the collection of well liquids during production activity. During natural gas production, well liquids are brought to the surface periodically and are routed to a storage tank. This activity occurs intermittently and often unpredictably. For many well facilities, the resulting off gassing of the collected liquids, also known as “flash gas”, directs these emissions to an ECD resulting in low flow rates near ambient pressure. The inherent nature of this operating scenario leads to several technical issues related to the proposed test methods for conducting performance testing on these ECDs.

Specifically, the Association is concerned that many of the test methods required under the Supplemental Proposal may be incapable of yielding reasonably representative data under conditions as described above. Additionally, the short duration of certain of these venting events may be less than the response time of a test method.

For example, inlet flow measurement on ECDs with intermittent operation can be problematic due to short duration and low flow velocity. EPA Methods 2, 2A, 2C, and 2D, which are proposed for

⁹ 87 FR 74782 (emphasis added).



flow measurement, are likely to result in inaccuracy due to the random and unpredictable nature of the venting process. This uncertainty in effectively employing any of these methods will result in inaccurate measurement. As an alternative, Method 2B could potentially be employed in these low flow, intermittent flow situations to provide more representative data.

EPA Method 4 also has limitations as the intermittent nature of the normal operation of these ECDs would interfere with the ability to obtain the required minimum sample volume. Additionally, the ability to capture a representative sample of the actual moisture content of the flash gas is limited due to the inherent non-instantaneous response time for activating the sampling train simultaneously with a venting event.

Finally, EPA Method 18 may have similar limitations as Method 4. The test equipment response time may not allow for a representative sample to be obtained, given the nature of the described process.

EPA has faced similar control device testing challenges in the past. In particular, for compliance testing purposes, the National Emission Standard for Hazardous Air Pollutants Subpart HH allows an “end of stack” method to demonstrate compliance. The Association urges U.S. EPA to consider and allow alternative test methods that would be better suited for low pressure, low flow, intermittent emission sources similar to the example described above.

The proposed rulemaking would also require monthly Method 22 opacity observations of ECDs. As with performance testing concerns noted above, production facilities that have intermittent and unplanned operation of ECDs will be challenged by this requirement. Well facilities are often widely distributed over large areas. Even if an operator is in the general vicinity of an ECD, given the intermittent and unplanned operation of the process, the operator may not be able to receive an indication that the ECD is in operation, travel to the ECD location, and conduct a Method 22 observation before the unit discontinues operation. Furthermore, many well production facilities are unmanned, thus making the ability to be present during operation of this type of ECD process for conducting Method 22 impracticable. We ask EPA to clarify that Method 22 opacity observations for these intermittent sources be conducted on an “as found” basis.

CONCLUSION

The Association strongly supports reasonable and fair regulations along with efforts to improve air quality and protect public health. However, the emission standards, monitoring, and recordkeeping requirements under the Supplemental Proposal are based on a flawed cost-effectiveness evaluation, are overly burdensome, unnecessary and/or duplicative, and will stifle the continued development of oil and natural gas resources in Ohio. Such a result will have a substantial negative impact on small businesses, particularly in underserved rural communities in Ohio. U.S. EPA should reconsider its BSER determinations under the Supplemental Proposal to



accurately account the unique operational circumstances and emissions profiles of the oil and gas industry.

The Association appreciates the opportunity to comment on and suggest revisions to the Supplemental Proposal. We look forward to continuing to work with U.S. EPA in its development of rules governing VOC and methane emissions from the oil and gas sector that are reasonable, technically supportable, and consistent with the Clean Air Act.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Kromer".

Stephanie Kromer
Director of Legislative & Regulatory Affairs
Ohio Oil & Gas Association