



August 23, 2024

VIA E-FILING (DAPC-Comments@epa.ohio.gov)

Emily Ania
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Re: Comments of the Ohio Oil and Gas Association on Ohio EPA’s Early Stakeholder Outreach – Emissions Guidelines for Methane Emissions from Existing Crude Oil and Natural Gas Facilities

Dear Ms. Ania,

On July 22, 2024, Ohio EPA published notice of an Early Stakeholder Outreach requesting input on Ohio EPA’s development of new rules in Ohio Administrative Code (OAC) Ch. 3745-115, “Methane Emissions from Existing Crude Oil and Natural Gas Facilities” (the “New Rules” or “OAC 3745-115”). Ohio EPA is developing the New Rules to fulfill its requirements under Clean Air Act (CAA) Section 111(d) for implementing regulations – specifically, to implement the emissions guidelines for existing sources in 40 CFR Part 60, Subpart OOOOc, which were established in U.S. EPA’s *Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review*, 89 Fed. Reg. 16820 (March 8, 2024) (the “Methane Rule”). The Ohio Oil & Gas Association (“Association” or “OOGA”) is pleased to submit the following comments on Ohio EPA’s development of OAC 3745-115.

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.

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, including submitting comments on the Methane Rule. The Association,



along with several other state and national industry associations, are currently challenging the Methane Rule in federal court.

Notwithstanding the Methane Rule's numerous legal and technical flaws that are under review, the Methane Rule creates new 40 CFR Part 60 Subparts OOOOb and OOOOc. Subpart OOOOb applies to and establishes emissions standards for oil/gas facilities constructed, reconstructed, or modified after December 6, 2022, and is enforced directly by U.S. EPA. Relevant here, Subpart OOOOc establishes emissions guidelines – presumptive standards – that states must implement via U.S. EPA-approved plans (or by U.S. EPA directly if a state fails to submit and/or enforce adequate plans) governing oil/gas facilities constructed on or before December 6, 2022. Many of the Association's members have operations that will be subject to and directly affected by Subpart OOOOc and, in turn, by Ohio EPA's New Rules implementing Subpart OOOOc. Several other members will be indirectly affected.

GENERAL COMMENTS – IMPACT OF THE METHANE RULE

Over the course of U.S. EPA's decade-plus rulemaking effort to reduce VOC and GHG emissions from the oil/gas source category, 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. The Methane Rule, the most recent addition to U.S. EPA's regulatory regime, will result in billions of dollars of costs on the oil and gas industry, including on OOGA's members.

A critical flaw in the Subpart OOOO regulations, including particularly Subpart OOOOc, 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 in a short period of time 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 Subpart OOOOc emission guidelines for existing sources, which have a disproportionate and detrimental impact on low production wells despite such wells having relatively small emissions. Notably, U.S. EPA's BSER determination for existing sources under Subpart OOOOc effectively regulates existing sources the same as new and modified sources. That is, Subpart OOOOc is based on the assumption that existing facilities can be retrofitted at a reasonable cost with equipment that is not yet available for small wells to meet the same



emissions standards applicable to new and modified sources. U.S. EPA made a gross miscalculation in this regard.

The Subpart OOOOc emissions guidelines and Ohio EPA's implementation thereof via the New Rules – absent acknowledgement of U.S. EPA's flawed assumptions and providing for more flexible alternative, albeit equivalent, means of compliance – will result in the closure of a substantial number of existing low production wells. 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 farming families who rely on the gas for heating and cooking will no longer have it after the wells are prematurely plugged. Many of OOGA's members lack the financial capital to retrofit existing sources with the equipment that is not yet available for small wells that is necessary to comply with the emissions standards under Subpart OOOOc and/or do not have enough technical staff and legal advisors to assist with understanding and complying with the myriad of complex requirements that they will be subject to, including AVO inspections, FLIR inspections, 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 requirements under Subpart OOOOc will render many existing operations, particularly low production wells with a single separator and tank, economically infeasible and drive many small business and operators of low production wells out of business.

Recognizing that CAA Section 111(d) requires Ohio EPA to implement Subpart OOOOc in accordance with certain prescribed parameters, the Association urges Ohio EPA to consider the significant potential consequences of the emission guidelines under Subpart OOOOc on OOGA's members and to provide as much flexibility as possible in the New Rules.

SPECIFIC COMMENTS

Ohio EPA's New Rules implementing the Subpart OOOOc emissions guidelines should be developed with two key aspects of implementation in mind: (1) establishing standards of performance for existing facilities, and (2) providing reasonable and legally and technically supportable measures that implement and enforce those standards. In this regard, the Association offers the following comments, questions, and concerns for Ohio EPA's consideration in developing the New Rules.

A. Adequacy of State (Ohio EPA) Resources



As an initial matter, an issue of concern is the significant amount of resources necessary for Ohio EPA to implement Subpart OOOOc. While the Association understands that the compliance deadline for existing sources subject to Subpart OOOOc is years away, we are not confident that the industry and the regulatory structure is prepared to comply. Ohio EPA will be responsible for the permitting, compliance- and enforcement-related actions (e.g. inspections, report reviews, etc.), 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 complete these activities exceed Ohio EPA's current budget and personnel capacity several times over.

A typical response to a shortage of funding and/or staff is to increase permitting fees. The Association understands that Ohio EPA's recently proposed increased fees for Title V facilities, synthetic minor facilities and Permits to Install (PTIs) in order to generate \$7 million in additional revenue necessary to *maintain status quo* within the Division of Air Pollution Control – i.e. the current proposal do not account for the significant additional resources needed to implement Subpart OOOOc. The Association is not aware of the anticipated costs for Ohio EPA to implement Subpart OOOOc or what, if any, action has been taken to ensure the Agency has adequate resources. The Association requests information from Ohio EPA in this regard. Relatedly, the Association respectfully urges Ohio EPA to find an alternative to placing its Subpart OOOOc implementation costs directly on the Subpart OOOOc sources. Placing additional financial burdens on the sources least capable of absorbing the additional costs is not a workable solution.

B. Flexibility and Equivalent Compliance Alternatives

The New Rules should not simply adopt the Subpart OOOOc emission guidelines and related requirements provision by provision. Instead, the New Rules should provide for as much flexibility as possible through alternative standards and compliance requirements that are less costly albeit equivalent to the Subpart OOOOc requirements. The Association requests that Ohio EPA consider such compliance alternatives in the New Rules particularly with respect to the fugitive emissions monitoring (LDAR), recordkeeping and reporting, and pneumatics requirements. Notably, Subpart OOOOc disqualifies wells in Ohio from being a "small well site" simply because they have a separator and tank which, in turn, subjects these wells to extremely costly FLIR camera inspection requirements with no added benefit. Providing additional flexibility will be critical to the continued viability of the Association's members operating low production wells and small businesses.

C. General Permit for Existing Sources

Ohio EPA's General Permit program for Horizontal Well Sites (GP 12.1 and GP 12.2) was, for the most part, an effective way to regulate sources subject to Subpart OOOO and Subpart OOOOa. The Association is not aware of any plans to develop a similar General Permit for existing sources subject to Subpart OOOOc, and requests information from Ohio EPA in this regard. Notwithstanding, the New Rules should provide for the



general framework for establishing such a program, including the qualifying criteria, process and timing for permit issuance, fees, and minimum requirements.

D. Coordination with ODNR Regarding well plugging and abandonment

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. ODNR's regulatory program governing the plugging and abandonment of wells in Ohio is robust and covers most of the requirements under Subpart OOOOc. In order to avoid duplicative or conflicting regulatory requirements, the Association recommends that Ohio EPA work closely with ODNR in developing the New Rules that will address the well closure requirements under Subpart OOOOc.

CONCLUSION

The Association appreciates the opportunity to provide input on Ohio EPA's development of the New Rules implementing Subpart OOOOc of the Methane Rule. We look forward to continuing to work with Ohio EPA in this rulemaking effort.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Kromer".

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