January 18, 2023

VIA E-FILING

Michael S. Regan, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
EPA Docket Center, Docket ID No. EPA-HQ-OAR-2022-0875

Re: Comments of the Ohio Oil and Gas Association on U.S EPA's Request for Information – Methane Emissions Reduction Program

I. 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 U.S. Environmental Protection Agency (EPA) has opened this docket for the purpose of receiving comments on the legislatively imposed – via the addition of Section 136 to the Clean Air Act pursuant to Section 60113 of the Inflation Reduction Act (IRA) – Methane Emissions Reduction Program, which establishes (1) an incentives program under which USEPA received $1.55 billion to reduce methane emissions from the oil and gas sector by providing financial assistance (grants, rebates, contracts, loans, and other activities) to eligible recipients, and (2) a first-ever federal "charge on methane emissions" (the "Methane Tax"). Notwithstanding the question as to whether USEPA even has the rulemaking authority to implement the incentives program and the Methane Tax, clear and comprehensive regulations governing the procedures for allocating the incentives and collecting the Methane Tax must be implemented to assure that the Methane Emissions Reduction Program is carried out effectively and fairly, and that small businesses – i.e. operators of marginal conventional wells – are not bearing the burden of the requirements of the Methane Emission Reduction Program.

II. Comments

The Methane Tax imposes an additional layer of regulation on top of the existing complex and stringent regulatory scheme controlling emissions from the oil and gas industry; and the current regulations are destined to become even more onerous.[1] Many of the of the Association's members have operations that will be subject to and significantly impacted by the Methane Tax. As noted in the Association's January 31, 2022 comments on the Proposed Methane Rule[2], OOGA is especially concerned about the implications that the Proposed Methane Rule and the Supplemental Proposal will have on low production wells and their associated facilities, which comprise a significant portion of all the wells in Ohio. While USEPA's 2021 and 2022 proposed standards may be enough to drive many operators of low production wells out of business, the Methane Tax will certainly be the nail in the proverbial coffin.

In addition to the financial consequences of Methane Tax itself, significant costs will be incurred just to comply with USEPA's Methane Emission Reduction Program. Because small conventional operators do not have the technical staff or attorneys in-house to assist them, small operators will need a myriad of technical assistance and guidance on the various aspects of the Methane Emissions Program. Specifically, OOGA recommends that USEPA provide technical assistance and/or develop detailed guidance on the following: the types and amounts of financial assistance available under the incentives program; recipient and project eligibility for each type of financial assistance; preparing and submitting applications for financial assistance determining applicability of the Methane Tax; and calculating the Methane Tax. OOGA also recommends that USEPA notify every well owner in the state regarding the availability of and how to access technical guidance on how to be compliant

The Association notes that calculating the amount of a facility's Methane Tax obligation is an unworkable apples-to-oranges metric. Under Section 136 of the Clean Air Act, a facility's Methane Tax obligation is for those methane emissions that exceed a particular "waste emission threshold", as that term is defined in Section 136(f). For facilities in the petroleum and natural gas production industry segment, the Methane Tax is assessed on metric tons of methane 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." The calculation of the Methane Tax is unworkable for two reasons: (1) the amount of methane is measured by weight (metric tons), whereas sales of natural gas are measured by volume (thousands of cubic feet) or by heating content (millions of British thermal units); and (2) natural gas sent to sale is comprised of several gaseous hydrocarbons, including methane **and** ethane, propane, and butanes (among others); and the "waste emission threshold" is based on all components of natural gas sent to sale, whereas the Methane Tax is a

[1] See, Standards of Performance for New, Reconstructed, Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review, 86 Fed. Reg. 63110, November 15, 2021 (the "Proposed Methane Rule"); and 87 FR 74702, December 6, 2022 (the "Supplemental Proposal"). USEPA issued the Supplemental Proposal to "update, strengthen, and expand the standards" established under the Proposed Methane Rule in an effort to "significantly reduce emissions of greenhouse gases (GHGs) and other harmful air pollutants from the Crude Oil and Natural Gas source category."

[2] See Comment ID # EPA-HQ-OAR-2021-0317-0803.

derivative of the methane component only. The Association requests that USEPA provide guidance on these issues.

As discussed above, the financial implications of the Proposed Methane Rule, the Supplemental Proposal, and the Methane Tax will be significant. Some small operators lack the capital to comply with these new regulations. Therefore, OOGA encourages the agency to allocate a substantial amount of the funds to financially assist these operators with the purchase of the new equipment necessary to reduce emissions and achieve compliance with applicable standards.

Due to recent global supply chain issues, already costly upgrades to equipment could become costlier if there is large demand for compliant equipment upgrades. This could deplete the available financial assistance funds faster and/or make the incentives less effective. Therefore, USEPA should evaluate potential remedies for these supply chain issues and consider delaying implementation of the Methane Tax to allow additional time for equipment to be readily available throughout the country.

With a potential shortage on equipment, OOGA also encourages USEPA to consider a phased approach for compliance with the Methane Tax. For example, if an operator has 1000 wells, the operator would be exempt from paying the amount of the Methane Tax owed in a particular year as long as the operator reduces emissions by 20% each year for the first 5 years after the Methane Tax is effective. The phased approach would facilitate emissions reductions and, at the same time, allow a small operator to reduce its Methane Tax obligation to a more manageable amount (or achieve emissions reductions in such amounts that would eliminate the operator's Methane Tax obligation altogether) after the 5-year phase-in period. Additionally, the phased-in over a 5-year period will lessen the burden on the supply chain.

On a separate but related note regarding exemptions from the Methane Tax, Section 136(f)(6)(A) exempts facilities when two conditions are satisfied: (1) the Performance Standards under the Proposed Methane Rule and Supplemental Proposal "are in effect in all States with respect to the applicable facilities" and (2) compliance with the proposed rules "will result in equivalent or greater emissions reduction as would be achieved by the" proposed rules "if such rule had been finalized and implemented." OOGA requests clarification and further guidance on how this exemption will be implemented, including how USEPA will determine whether a facility qualifies for this exemption – i.e. how USEPA will determine how much the proposed rules will reduce emissions so that the requisite comparison can be made.

III. Conclusion

OOGA appreciates the opportunity to comment on and suggest revisions to the Methane Emission Reduction Program. If OOGA can provide further information, please contact Stephanie Kromer at stephanie@ooga.org.

Respectfully Submitted,

Stephanie Kromer

Stephanie Kromer
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