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OSHA Docket Office,  
Docket No. OSHA-2013-0023 or RIN 1218-AC49,  
Technical Data Center, Room N-2625,  
OSHA - U.S. Department of Labor,  
200 Constitution Ave. NW.,  
Washington, DC 20210

13 October 2014

**RE: Comments of the American Exploration & Production Council (“AXPC”) in Response to the Occupational Safety & Health Administration (“OSHA”) Proposed Rule entitled “Improve Tracking of Workplace Injuries and Illnesses” (August 14, 2014). Docket No. OSHA-2013-0023 (RIN 1218-AC49)**

Dear Docket Clerk:

On November 08, 2013, OSHA published a notice of proposed rulemaking to amend the annual OSHA injury and illness reporting requirements to add three new electronic reporting obligations. On August 14 2014, OSHA published a supplemental notice of proposed rulemaking indicating the Agency is seeking comment on whether to amend the proposed rule to (1) require that employers inform their employees of their right to report injuries and illnesses; (2) require that any injury and illness reporting requirements established by the employer be reasonable and not unduly burdensome; and (3) prohibit employers from taking adverse action against employees for reporting injuries and illnesses.

The American Exploration & Production Council (AXPC) is a national trade association representing 32 of America’s largest and most active independent natural gas and crude oil exploration and production companies. AXPC’s members are “independent” in that their operations are limited to the exploration for and production of natural gas and crude oil. Moreover, its members operate autonomously, unlike their fully integrated counterparts, which operate in additional segments of the energy business, such as downstream refining and marketing. AXPC’s members are leaders in developing and applying the innovative and advanced technologies necessary to explore for and produce crude oil and natural gas, and that allow our nation to add reasonably priced domestic energy reserves in environmentally responsible ways.

In regards to (1) and (2) – under 29 CFR 1904.35 employers are currently required to establish a process for their employees to report work-related injuries/illnesses and to inform each employee how to report work-related injuries/illnesses. As OSHA acknowledged in the supplemental notice, “OSHA believes that onerous and unreasonable reporting requirements are already in effect prohibited by section 1904.35.”

In regards to (3) – adverse actions cited by OSHA which would be prohibited following an injury/illness report include post-injury drug testing, post-injury counseling, and post-injury discipline where an

individual violates a safety rule “but the real reason for the action is the employee’s injury or illness report”. Section 11(c) of the OSH Act currently provides adequate protection for employees reporting injuries/illnesses. A variety of actions (including the examples cited by OSHA) may be undertaken for well-justified reasons other than to discourage reporting. For example, under certain circumstances, drug testing may be mandated by DOT regulations. A rulemaking which results in a list of “adverse actions” which cannot be undertaken by the employer will result in confusion and limit the employer’s ability to take actions which are necessary to assure a safe workplace.

**In light of the existing regulations, AXPC member companies believe that the amendments to the proposed rule are unnecessary and would be counterproductive - only adding complexity to a relative straightforward well-defined process.**

Sincerely,

A handwritten signature in blue ink that reads "V. Bruce Thompson". The signature is written in a cursive style with a large, stylized initial "V".

V. Bruce Thompson  
President  
American Exploration & Production Council