

Via e-mail: methanechallenge@tetrattech.com

November 13, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D. C. 20460

Re: Natural Gas STAR Methane Challenge Program Proposal

Dear Administrator McCarthy:

The following comments to the proposed Methane Challenge program released by the Environmental Protection Agency (EPA) on July 23, 2015, are submitted on behalf of the Independent Petroleum Association of America, the American Exploration and Production Council, and Western Energy Alliance. We appreciate the opportunity to provide EPA with comments on its proposed Methane Challenge program and collectively, we support using a voluntary program to achieve emission reductions. A flexible, voluntary program that offers tangible benefits to participants and provides regulatory certainty is the most efficient and quickly-implemented path to achieving EPA's emissions goals. Voluntary programs allow companies to focus resources in areas where the greatest gains can be achieved, while reducing the administrative burden when compared to a regulatory program. Tangible benefits will attract broader participation, thus creating a more successful program.

Western Energy Alliance represents over 450 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. The Alliance represents independents, the majority of which are small businesses with an average of fifteen employees.

The Independent Petroleum Association (IPAA) represents the thousands of independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts, that will most directly be impacted by the proposed actions. Independent producers develop 90 percent of American oil and natural gas wells, produce 54 percent of American oil and produce 85 percent of American natural gas. IPAA is dedicated to ensuring a strong, viable American oil and natural gas industry, recognizing that an adequate and secure supply of energy is essential to the national economy.

The American Exploration & Production Council (AXPC), is a national trade association that represents 31 of the largest US independent natural gas and crude oil exploration and production companies - Leaders in finding and developing secure energy supplies throughout North America. Members are "independent" in the sense that that they do not have petroleum refining or retail marketing operations and therefore are not "fully-integrated". The AXPC mission is to work constructively for sound energy, environmental and related public policies that encourage responsible exploration, development and production of natural gas and crude oil to meet consumer needs and fuel our economy.

In addition to the comments submitted herein, Western Energy Alliance, IPAA, and AXPC also endorse the comments submitted by the American Petroleum Institute.

As EPA is well aware, the proposed Methane Challenge enters a regulatory environment in which there are numerous existing and forthcoming regulations. Many of these regulations address new source emissions standards, and therefore these new sources would not be eligible for a voluntary program due to regulatory requirements. However, there are many modified and existing sources that could potentially fit into a voluntary program.

Efficiently regulating existing sources in the upstream oil and natural gas industry is a complex undertaking due to the natural decline of production over time from those existing sources. A realistic existing source regulatory strategy needs to recognize that there is little value in regulating marginal oil and natural gas wells. While these wells make up the preponderance of American wells, their individual low production rates means that their emissions will be correspondingly small. The methane emissions inventory is demonstrating that the application of the 2012 New Source Performance Standards (NSPS) Subpart OOOO that targets the larger emissions source in the upstream oil and natural gas industry is reducing methane emissions. As these new wells become the majority of non-marginal US wells, the benefit of an existing source regulatory program rapidly diminishes. A voluntary program offers the benefit of a faster implementation time than a regulatory program, which means those existing sources can be controlled more quickly. Additionally, the reduced cost burden of a voluntary program allows companies to focus their resources on taking steps to reduce emissions, rather than on added compliance and reporting steps that offer minimal environmental benefit. However, a voluntary program, like an existing source regulatory program, should be directed toward facilities with an emissions profile that makes the controls cost effective and should not apply to marginal wells. As an industry, we support these voluntary programs when they are properly structured and incentivized.

Program Incentives

A voluntary approach to emission control is a logical starting point. It is also critical to determine what tangible incentives exist to encourage participation. In its program proposal, EPA solicited comments on incentives and we appreciate EPA's request for input. In order to get widespread participation in the Methane Challenge program, we recommend several approaches for incentives:

1. **Regulatory relief from existing rules and forthcoming rulemaking:** In order to make decisions about participation, companies need to have some degree of certainty on the regulatory process. EPA should consider ways of offering companies that enroll in the Methane Challenge exemptions from

current and future regulatory programs including: Control Technique Guidelines (CTGs) in existing or future Non-Attainment Areas (NAAs), exemption from Clean Air Act (CAA) rules targeting existing sources of methane emissions, forthcoming BLM Venting and Flaring rules for new and existing sources, and individual state programs such as Colorado's Regulation 7 or Wyoming's Minor Source program.

2. **Voluntary reductions should be made available as offsets for future projects:** By allowing offsets to be credited and banked for projects in NAAs, EPA would incentivize aggressive early action by industry. If companies either do not receive credit for early action taken or are expected to do even more because of their decision to be proactive, there is limited incentive for participation in a voluntary program.
3. **Streamlined reporting requirements and protection from voluntary reporting data being used for enforcement actions:** Some of the most costly elements of any regulatory program are the reporting and recordkeeping requirements. Using data already available through Subpart W reporting is appropriate and using supplemental data from e-GGRT is also appropriate, however there have been numerous technical issues with the e-GGRT database.
4. **An off-ramp for declining sources:** EPA solicited feedback on the five year implementation window for Best Management Practices (BMP) commitments. In most instances, a five year window would be appropriate and we generally support this approach. However, if there is a phase-in period we also recommend including a phase-out period. As was raised earlier in our letter, many sources of emissions in upstream oil and gas decline over time. In order to keep funds available to target the most high-impact sources, we recommend EPA also include a production level-based off-ramp for declining emission sources. If a source is kept in the program in perpetuity, it would not offer any environmental or financial benefit. If anything, it would have a negative overall impact by keeping capital tied up in an ineffective program, rather than allowing it to be redirected to areas where companies can deliver larger methane emissions reductions. EPA begins to address the issue of the scope of regulation in its Subpart OOOOa and CTG proposals by identifying the exclusion of marginal wells. EPA should, at a minimum, provide that as wells in the voluntary program become marginal, they should be removed from the program, but a higher level might be appropriate and should be considered.

This is an even greater concern in the current commodity price environment. EPA should maximize flexibility for industry so that it can deploy its resources as efficiently as possible. A program that hampers companies by forcing emission control programs on sources that offer minimal benefit could potentially deter participation. Instead, companies must be free to allocate their capital to cost-effective control strategies. Companies currently face many difficult choices regarding capital expenditures across the industry. EPA must recognize the conditions within industry as it is proposing this program and maintain realistic expectations about how companies will be able to participate. In order to best engage with industry under current commodity prices, we recommend EPA pursue a stakeholder process to

determine benefits. Should EPA consider adopting all, any, or none of these suggestions, we would recommend it engage directly with operators through a collaborative process to determine the final incentive structure.

Proposed Commitment Options

In EPA's proposed program, it identified three options for participants to make commitments. We support EPA offering options for participants, as greater flexibility will lead to a more successful voluntary program. The first option identified by EPA, known as the BMP Commitment Option allows companies to commit to emission source-based mitigation practices, while the One Future option allows companies to commit to an intensity target that it reaches through a mix of mitigation options. We support the inclusion of both of these strategies. The third strategy identified but not favored by EPA is the Emission Reduction (ER) commitment option. We support the inclusion of this third commitment option in the program.

1. BMP Commitment Option

EPA identified seven sources that would be eligible for the BMP commitment option. These sources are very similar to those subject to regulation under the NSPS Subpart OOOO and potentially under Subpart OOOOa proposed by EPA, with the exception of liquids unloading. Liquids unloading was held out of NSPS OOOOa because of uncertainty, variability and monitoring difficulty associated with this source. These same issues will all hold true for liquids unloading under a voluntary program, therefore we do not believe this is a viable BMP option.

Leak Detection and Repair (LDAR) is similarly problematic, as LDAR programs do not offer quantifiable emission reductions under the proposed reporting methods, making it impossible to evaluate the benefit of an LDAR program. We request that EPA clarify how it intends to demonstrate that any LDAR program included in the Methane Challenge can be evaluated for cost-effectiveness.

The large overlap between NSPS Subpart OOOO and proposed Subpart OOOOa and the Methane Challenge gives us concern because so many of these BMP-eligible sources are already or potentially regulated. That means that many incentives to enroll in the Methane Challenge will be taken away through regulatory obligations. Although existing facilities will be eligible, in many cases these will offer limited benefit due to production and associated emission declines.

2. One Future Commitment Option

As indicated, the Associations support EPA providing different voluntary options to further reduce methane emissions from the oil and natural gas sector. Some Association members are part of the Our Nation's Energy Future Coalition, Inc. (ONE Future). ONE Future seeks to achieve an average annual rate of methane emissions across the collective ONE Future operations equivalent to one percent or less of gross US natural gas production by 2025. The Associations support the inclusion of ONE Future as one of the voluntary program options available in the Methane Challenge.

3. ER Commitment Option

We support including ER as a possible option in the Methane Challenge. Although this would require some additional baseline data, BMP options would require similar baseline data and therefore we do not believe this would be a significantly greater burden. ER has the benefit of being another option that increases flexibility to participants. Although it might not work for all companies, we support including it as greater choice to make the Methane Challenge more attractive to potential participants.

Conflicts with Other Regulations

We support the framework of commitment options laid out by EPA, with the inclusion of the incentives discussed above. However we do have reservations about the Methane Challenge that particularly affect companies operating on tribal and federal lands. As EPA is undoubtedly aware, there are numerous regulations in place or under development that could potentially limit the voluntary options for these operations. Among those that could potentially overlap are:

- BLM Venting and Flaring
- Indian Country Minor NSR
- A Lowered Ozone National Ambient Air Quality Standard
- Control Technique Guidelines (CTGs) in NAAs
- State regulations like Colorado's Regulation 7
- New Source Performance Standards Subpart OOOO and proposed Subpart OOOOa

We strongly encourage EPA, in coordination with its state and federal agency partners, to consider offering regulatory relief from these regulations to incentivize participation in the Methane Challenge. Without such relief, companies may not have compliance options available to them, as these regulations will in effect require any voluntary action companies might otherwise take.

Areas Needing Clarification

There are several areas in the proposal that require additional clarification and we request feedback from EPA on these points.

- **Business Unit definition:** EPA asked for comments on the definition of companies or entities. EPA defines a business unit as "a separately managed division or unit of an enterprise with strategic and/or operational objectives that may be distinct from the parent unit and other divisions or business units." However, it is unclear how this would apply across companies that divide their businesses differently. For example, some companies may have a Colorado or Rocky Mountain business region but cost-effective control strategies might look different in Colorado versus Wyoming or across basins within the same state. We encourage EPA to provide additional information on what they envision as a business unit.

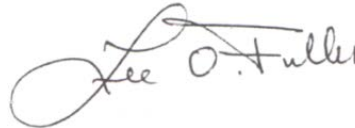
- **Consequences for not meeting goals:** In EPA’s webinar, it was asked what the possible consequences or penalties would be for companies that are unable to meet their goals under the Methane Challenge. EPA’s response was that it was unsure of what the consequences would be, which we find troubling. Since this is a voluntary program, there should be no penalties for companies that are unable to fulfill their commitments under the program. We request that EPA clarify this point.

We appreciate the opportunity to comment on EPA’s proposed program. We are strong supporters of a voluntary program with the proper incentive structure. We appreciate EPA’s willingness to consider our concerns and provide clarification on the topics we have identified. We would welcome the opportunity to discuss the program further.

Sincerely,



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