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October 26, 2023

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

RE: Docket No. EPA-HQ-OAR-2021-0317

Dear Administrator Regan:

I am writing to convey my strong concerns regarding the proposed methane emissions and Greenhouse Gas (GHG) reporting regulations by the U.S. Environmental Protection Agency (EPA) outlined in Section 111 of the Clean Air Act, specifically titled "Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review" (methane rule), and the "Greenhouse Gas Reporting Rule: Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems."

The current Administration has made its intentions clear: it is determined to target our flourishing oil and gas sector, despite its substantial progress in reducing methane emissions, irrespective of how it might impact American energy security, reliability, and consumer cost. This has put pressure on EPA to hastily finalize and implement these extensive new regulations, leading to proposals that lack thorough consideration and alignment. This lack of alignment unjustly burdens industry while simultaneously hindering EPA's ability to achieve its own stated emissions reduction objectives. Because EPA is so singularly focused on its anti-fossil agenda, it has missed an opportunity to craft calibrated proposals that achieve emissions reductions while ensuring that the domestic oil and natural gas industry can continue to provide affordable and dependable energy to meet global market demands. While the federal government has a role in responsibly regulating methane emissions, a failure to harmonize these rules before they are finalized will have severe consequences for the nation and our strategic partners, putting our energy and national security at risk.

The most immediately obvious example of EPA's haste in promulgating these rules is the completely unrealistic compliance timeframe it establishes in the proposed methane rule for companies to upgrade critical field equipment to effectively address leaks from new wells, storage tanks, and essential equipment. If finalized in its current form, businesses would be afforded just a 60-day window to upgrade various devices, such as widely used pneumatic controllers responsible for regulating temperature, pressure, and liquid levels. This timeline is grossly inadequate and fails to acknowledge the extensive scale of the required upgrades. EPA's

estimates indicate that by 2030 these combined rules will have an impact on around 500,000 oil and gas wells, which includes central processing facilities and tank batteries. Additionally, this will encompass over 12,000 gathering and boosting stations, 700 natural gas processing plants, and 3,500 transmission and storage compressor stations, subjecting them to either new or heightened requirements. Given the ongoing supply chain disruptions in the oil and gas industry, which are partly due to the COVID-19 pandemic, significant delays have arisen in acquiring vital equipment like pneumatics, control devices, storage vessels, associated gas equipment, and fugitive emissions components. These delays span from six to 24 months, presenting insurmountable obstacles to meeting EPA's proposed regulation. Consequently, it is imperative that EPA engages in close collaboration with industry stakeholders to establish compliance deadlines that acknowledge these supply chain limitations and ultimately finalizes a rule that distinguishes between requirements that can be swiftly implemented and those necessitating an extended implementation schedule.

EPA's proposed Super Emitter Program (SERP) is also concerning, especially the provision allowing third parties to report super-emitting events without specialized training or licensure. While EPA's stated goal in establishing SERP is laudable, seeking to give regulatory authorities or pre-approved third parties the ability to promptly alert facility owners and operators of large releases, the program appears to be incomplete and perhaps unworkable with numerous practical challenges suggesting that modifications are needed to enhance efficiency and ease administrative burdens on industry. If the agency proceeds, it should actively manage the program, ensuring the accuracy and reliability of data from third-party sources while retaining exclusive control over verified data publication. As part of this proactive oversight, EPA should create and routinely revise a catalog of approved technologies, complete with usage guidelines to help maintain uniform standards and calibration for monitoring equipment.

Based on industry feedback, EPA should also explore the possibility of creating an official clearinghouse for SERP, with the agency serving as a mediator between third parties and operators. This approach serves a dual purpose. Firstly, it safeguards sensitive energy infrastructure data and addresses national security concerns associated with publicizing maps and ownership information. Secondly, it would grant EPA the authority to restrict third-party data use for unrelated purposes, while allowing operators to review and respond to information before publication to maintain contextual accuracy. Considering the complexity of implementing an untested and intricate program, it may be wise for EPA to launch a pilot program for SERP, allowing for testing and refinement of tools and protocols before formal regulatory adoption.

Furthermore, the EPA's inability to reconcile the changes proposed to Subpart W of the Greenhouse Gas Reporting Program (GHGRP) with Inflation Reduction Act (IRA) requirements is troubling. While the IRA provides clear directives to enhance accurate emissions assessment for the Methane Waste Emissions Charge (Methane Fee) and offer facility owners the choice of submitting firsthand, observed emissions data, EPA's proposed revisions impose notable constraints on the utilization of advanced emissions measurement methods by facility owners. EPA's proposal lacks flexibility and introduces resource-intensive demands. For instance, it mandates that operators gather 50 leak measurements to develop site specific emissions factors, which will pose a challenge for operators with fewer sites and for seldom used components, and might not even be possible to acquire. This approach directly contradicts EPA's simultaneous

initiatives in the Methane Rule, where operators are given the option to utilize advanced compliance methods. Rather than harmonizing, these demanding testing requirements appear designed to discourage operators from submitting their own data and to push them to instead rely on generic emissions factors, potentially hindering emissions reduction efforts and arbitrarily increasing Methane Fee penalties for emissions that are not actually occurring. Prior to publication, EPA should strive for compatibility and uniformity among the Methane Rule, Subpart W reporting changes, and Methane Fee implementation, avoiding overly stringent restrictions that might impede the adoption of innovative technologies, such as mandating the use of Optical Gas Imaging (OGI) cameras to verify leak repairs, and instead opt for regulatory flexibility and technological impartiality.

In certain cases, EPA takes an even more restrictive stance by completely prohibiting operators from using their own data and instead mandating the use of EPA emission factors for the reporting requirements pertaining to combustion emissions in engines with fuel that has less than 85% methane and gathering lines. This approach is completely inappropriate as the basis for a fee program because it predominantly relies on the metric of pipeline mileage as the basis for emissions calculations and neglects the critical distinction between observed leaks and the mere presence of pipeline miles. Just because a pipeline exists does not mean that it leaks, and this approach disproportionately affects conscientious operators who diligently monitor their pipelines and promptly address identified leaks. It is also unlawful because the IRA required that EPA “allow owners and operators of applicable facilities to submit empirical emissions data” under Subpart W for emissions that may be subject to the Methane Fee. Therefore, to ensure fairness and accuracy, it is essential for both Subpart W regulations and IRA Methane Fee calculations to focus on emissions from unrepaired leaks, thereby avoiding undue penalties and promoting emissions reduction. By shifting the focus from assumed emissions based on pipeline mileage to observable leaks and their subsequent repair status, the regulatory framework can better align with the industry's proactive efforts to meet emissions targets.

Finally, I am concerned about EPA's existing definition of a "facility" within the context of oil and natural gas operations when it comes to application of the Methane Fee. As it stands, the current definition could mistakenly encompass entire basins as singular facilities if left unaltered. This poses an issue because operators in a given basin often oversee numerous discrete well sites, some of which may or may not be connected by production pipelines. It is inappropriate to categorize these as a single facility, and therefore, EPA should take a more granular approach, such as recognizing each individual well pad site as a distinct entity. This revised approach would align with the objectives of the IRA, primarily by focusing operators' methane control efforts on well pad sites with substantial emissions.

I look forward to your prompt response to my continued concerns about the impact of these rules on West Virginia and the nation.

Sincerely,



JOE MANCHIN III
Chairman