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FUELING UTAH'S GROWTH & PROSPERITY

January 31, 2022

Ms. Karen Marsh  
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U.S. Environmental Protection Agency  
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**Submitted via Federal Rulemaking Portal <https://www.regulations.gov> at Docket No. EPA-HQ-OAR-2021-0317**

**Subject: Docket No. EPA-HQ-OAR-2021-0317; "Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review; Proposed Rules; Federal Register Volume 86, Number 217; November 15, 2021; p. 63110.**

Dear Ms. Marsh:

The Utah Petroleum Association ("UPA") is pleased to submit the following comments on the proposed standards of performance for new, reconstructed, and modified sources and emissions guidelines ("EG") for existing sources for the oil and natural gas sector climate review ("Proposal").<sup>1</sup> We thank the Environmental Protection Agency ("EPA") for providing this opportunity.

UPA is a statewide oil and gas trade association established in 1958 representing companies involved in all aspects of Utah's oil and gas industry. UPA members range from independent producers to midstream and service providers, to major oil and natural gas companies widely recognized as industry leaders responsible for driving technology advancement resulting in environmental and efficiency gains. UPA members will be affected by the proposed rules when promulgated.

Many of our member companies belong to national trade associations such as the American Petroleum Institute, Gas Processors Association, and others. Some of these national trade associations are providing more fulsome comments on the Proposal than the respective member

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<sup>1</sup> Federal Register Volume 86, Number 217; November 15, 2021; p. 63110, "Proposal."

companies support. This comment letter focuses only on certain issues particularly germane to oil and gas operations in Utah and to our member companies.

UPA member companies have interests in the Uinta Basin including but not limited to the Uinta Basin ozone nonattainment area. We recognize the importance of reducing volatile organic compound (“VOC”) emissions to improve air quality towards supporting future attainment and maintenance of air quality. Therefore, UPA supports regulations for operations in the Uinta Basin that have been shown to be both science-based and cost-effective towards meeting the National Ambient Air Quality Standard (“NAAQS”) for ozone.

Furthermore, we support innovative, collaborative solutions that lower greenhouse gas emissions while meeting the world’s growing need for abundant, low cost, reliable energy. Successful public policy must recognize that oil and gas underpin our standard of living and American oil and gas is critical to our national security and economic prosperity. Policy changes pertaining to climate change must meaningfully result in reduction of greenhouse gas emissions and should balance economic, environmental and energy security needs and utilize predictable and economically efficient frameworks such as market-based solutions that deliver maximum benefit at a minimum of cost to the public. Any climate change policy whose net result imposes any unnecessary or disproportionate costs on those who can least afford to bear them and/or the outsourcing of American manufacturing and energy production to countries with poorer environmental standards is a non-starter.

Over the past decade, methane emission rates relative to production in the key producing U.S. basins have declined nearly 70 percent even as America produces more affordable, reliable, and cleaner natural gas. Our industry is an industry of problem-solvers.

Our member companies have undertaken voluntary efforts to reduce VOC and methane emissions. Establishing appropriate additional regulations will advance a more level playing field both within Utah and with operations nationwide.

In summary, our comments address the following issues of particular importance to our member companies and their Utah operations:

- Many of our member companies operate on Tribal lands in the Uinta Basin of Utah. EPA must have sufficient consultation with the Tribe to ensure that it fully supports Tribal preferences for OOOOc implementation on Tribal lands. Furthermore, EPA must not delay finalizing its proposed rulemaking for controls on these Tribal lands.
- The final rule must not do harm to state minor source air permitting programs such as Utah’s.
- EPA has underestimated the costs of electrifying Utah oil and gas operations and should provide a similar exemption from zero-emission pneumatic controllers afforded to sites in Alaska.
- Wells with associated gas must be allowed to use the gas as an onsite fuel source even in the presence of pipeline takeaway capacity.
- Small businesses in Utah need maximum flexibility to be able to compete in the global marketplace.
- Utah has a labor shortage more acute than nearly all other states. Coupled with the nationwide supply chain shortage, these shortages dictate the need for extended initial compliance time frames and, where needed, case-by-case extensions.

- EPA should not overly restrict advanced measurement technologies and discourage their use.
- Requiring that crude oil be moved by pipeline from storage tanks instead of trucked would be impractical with Utah waxy crude oil.

We discuss these issues in detail below.

**1. EPA should work proactively and closely with Ute Tribe and fully support Tribal preferences regarding applicability and implementation of 40 CFR Part 60 Subpart OOOOc and the associated EGs on Tribal Lands.**

Utah oil and gas sources operate in the Uinta Basin ozone nonattainment area with a substantial portion of the sources located on Tribal lands within the nonattainment area. As EPA acknowledged in the Proposal, the agency is actively working on a FIP for controls of VOC on the Uintah and Ouray Indian Reservation to reduce ozone concentrations.<sup>2</sup>

UPA and its member companies strive to develop and maintain a strong and mutually beneficial working relationship with the Ute Tribe. We understand the Tribe to recognize, appreciate, and foster the economic value that oil and gas operations on Tribal lands bring while acknowledging the associated environmental challenges.

Tribes may, but are not required to, adopt rules to implement the OOOOc EG. However, if a Tribe does not seek and obtain the authority from the EPA to establish a Tribal Implementation Plan for the EG, Clean Air Act (“CAA”) §111(d) grants EPA the authority to establish a plan for areas of Indian country where designated facilities are located. EPA expressed their commitment to work with eligible Tribes to help them seek authorization and develop plans if they choose.<sup>3</sup>

UPA encourages EPA to proactively discuss the EPA rulemaking with the Ute Tribe, to fully understand the Tribe’s preference for implementation, and to support the Tribal efforts while also acknowledging issues associated with a level playing field between Tribal and non-Tribal lands. Any rulemaking that EPA might undertake on behalf of the Tribe should be expeditious, unlike the FIP, which EPA proposed two years ago and, as of this writing, has not yet been sent to the White House Office of Management and Budget for final inter-agency review prior to promulgation. Any rulemaking by EPA must also involve appropriate Tribal consultation to the satisfaction of the Tribe.

**2. Even though the Proposal is more stringent than EPA’s proposed FIP for Tribal lands in Utah, we encourage EPA to finalize the FIP expeditiously.**

UPA sees no direct relationship between this Proposal and the FIP. We do not want EPA to imply a relationship and potentially halt work on the FIP in lieu of finalizing these more extensive OOOOb and OOOOc regulations. The NSPS OOOOb regulations are more extensive and more restrictive than the FIP considering types of equipment controlled, threshold applicability levels,

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<sup>2</sup> Proposal, p. 63248. See also “Federal Implementation Plan for Managing Emissions From Oil and Natural Gas Sources on Indian Country Lands Within the Uintah and Ouray Indian Reservation in Utah” proposed rule; Federal Register volume 85, Number 33; January 1, 2020; p. 3492 (“FIP” or “proposed FIP”)

<sup>3</sup> Proposal, page 63256.

and levels of control, but will only apply to new and modified sources, not to existing sources that the FIP will address. The State Plans that will adopt the EGs will apply to existing sources but will regulate GHGs as methane and will not regulate VOCs per se<sup>4</sup> and it will be several years before full implementation of the EGs for methane at existing sites. Potentially, the balance between VOC and methane emissions at some existing sites within the Uinta Basin may be such that the FIP will regulate VOC but methane emissions may fall below the EG applicability thresholds. Thus, this Proposal should not be considered as a substitute for the FIP.

UPA encourages EPA to continue its work to finalize the FIP as expeditiously as possible. Expeditious implementation of the FIP for existing sources has a number of benefits:

- It may provide more timely critical emission reductions needed to achieve and maintain attainment in the Uinta Basin ozone nonattainment area and provides the fastest schedule to VOC reductions within the area.
- It lessens the need to shift the burden of emission reductions needed for an ozone attainment demonstration primarily to State-controlled lands.
- It supports EPA Environmental Justice goals by supporting better air quality on Tribal lands.

Nonetheless, UPA has a concern about the unnecessary complexity that complying with multiple but differing sets of regulations that apply to the same equipment will introduce. Even though controls must meet the stricter requirements, both sets of applicable rules would require recordkeeping and reporting, which may be dissimilar, and other regulatory details may differ as well. Therefore, UPA requests that EPA include a provision in the OOOOb and OOOOc regulations such that sites may comply with the most stringent applicable set of requirements between the FIP, OOOOb, or state regulations adopted under OOOOc to meet the EGs, or that a source may voluntarily comply with a more stringent set of regulations in lieu of the FIP, without an obligation to continue to show compliance with the applicable but less stringent set of requirements. Such a provision will simplify compliance with recordkeeping, reporting and other regulatory details, and could potentially encourage some operators to voluntarily meet a more stringent standard as a means to harmonize and simplify their overall compliance obligations.

### **3. The final rule must not harm State minor source air permit programs such as Utah's Permit by Rule ("PBR") system.**

Utah has a very effective and efficient program to address permitting for minor oil and gas sources embedded in its oil and gas rules as a PBR.<sup>5</sup> These rules allow oil and gas operators to construct and operate oil and gas minor sources that meet certain standards for control of VOC and nitrogen oxide ("NOx") emissions without a time consuming and administratively burdensome need to go through individual case-by-case minor source permitting. We see nothing in the Proposal that will harm this process. We encourage EPA to ensure that its planned supplemental proposal remains equally agnostic towards state minor source PBR programs.

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<sup>4</sup> In the control of methane as a GHG, VOC reductions will occur but the EGs will not regulate VOCs directly.

<sup>5</sup> See Utah Administrative Code R307-505 and R307-506 through R307-510.

**4. EPA has underestimated the costs of electrifying Utah oil and gas operations. Non-electrified sites in Utah require the same exemption from zero-emission pneumatic controllers afforded to sites without reliable electric power in Alaska.**

EPA did the cost estimates for the Proposal based on an assumption that reliable electricity would be available at operating sites in roughly the same percentage as in Colorado, at 40 percent.<sup>6</sup> However, in Utah, substantially fewer oil and gas producing properties have access to reliable electricity. UPA contends that extending power lines farther than one mile would be cost-prohibitive and may not be feasible at all in many cases. UPA estimated that only 12% of oil and gas sites within the emissions inventory are within one mile of a powerline of 46 kV or greater, 22% within two miles, and 32% within three miles. We estimated that only 11% of pneumatic controllers with VOC emissions (14% of pneumatic controller emissions) within the Uinta Basin are located within one mile of power lines of 46 kV or larger, including a transmission line that has been permitted but not yet built.<sup>7</sup> Even if power lines could be extended farther, only 21% of controllers with VOC emissions (27% of controller emissions) are located within two miles and only 32% of controllers with VOC emissions (41% of controller emissions) within three miles.<sup>8</sup>

Electrification in Utah is costly and fraught with numerous obstacles. As a result, we request that EPA provide an exemption from zero-emission pneumatic controllers in Utah at non-electrified sites, similar to the exemption that EPA proposed to provide for operations in Alaska that lack power.<sup>9</sup>

As indicated above, a large percentage of Utah wells are located in areas with either very little or practically nonexistent electric grid development or the available grid lacks capacity to add significant numbers of new users. EPA stated that, “At sites without electricity provided through the grid or on-site electricity generation, mechanical controllers and electronic controllers using solar power can be used.”<sup>10</sup> In some cases, we agree that solar power might be an option but our member companies have not yet been able to demonstrate this to be universally true in Utah’s Uinta Basin. Some Utah operators are experimenting with solar installations but have not yet proven solar to be reliable, effective, and efficient on a very large and widespread scale under Utah conditions. Installations may require excess generation and battery storage capacity to maintain operations during wintertime inversions. Additionally, snowstorms will cover the solar panels and inhibit or prevent electricity generation. Thus, utilizing solar electricity for oil and gas

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<sup>6</sup> See “Regulatory Impact Analysis for the Proposed Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review,” EPA-452/R-21-003, September 2021 (“RIA”), p. 2-14, located in the docket for the Proposal at <https://www.regulations.gov/document/EPA-HQ-OAR-2021-0317-0140> (accessed on January 8, 2022).

<sup>7</sup> This statement refers to the new Bonanza power plant to Bookcliffs substation (about 10 miles south of Fort Duchesne) transmission line that is permitted but has yet to be built.

<sup>8</sup> UPA based the analysis of location of VOC-emitting controllers and emissions relative to powerline locations on an evaluation of the State of Utah’s 2017 emissions inventory data for pneumatic controllers (Utah 2017 Populated Oil and Gas Emissions Inventory Database Version 1.89 dated April 21, 2021) and powerline location information from the Energy Information Administration (database provided at <https://www.eia.gov/electricity/>), and Bureau of Land Management (Bonanza to Bookcliffs Transmission Line Environmental Assessment, August 2021). These locations do not consider the proximity to substations or smaller distribution lines, which could increase the distance over which power lines would need to be constructed.

<sup>9</sup> See Proposal, pp. 63179 and 63189.

<sup>10</sup> Proposal, p. 63203.

operations in Utah may be labor intensive, costly, and unreliable such that operations would still require backup power from the electric grid or from generators.

Microgrids have not been proven as a viable option in areas lacking sufficient electric grid development. Electricity service territorial issues as well as federal permitting requirements on federal land to install transmission makes it impossible or at least very difficult to install any transmission capability for a microgrid.

Some Utah operators have installed distribution lines to some of their operations, but this is not feasible in all well locations due to various factors such as distance from the nearest distribution line, whether the nearest distribution line has available capacity, challenges due to complex terrain, Tribal restrictions if the well is located on Tribal lands, and policies of the local electric power distribution cooperative.

Where Utah operators have extended electric power distribution lines to their sites, the projects have incurred numerous obstacles. An electric cooperative serves much of the oil and gas production area of Utah and in some places operators have not been allowed to install their own distribution lines. Operators have experienced delays of a year and a half to negotiate with the electric cooperative and with landowners to obtain right-of-way, before construction may commence.

With current supply chain problems (discussed in more detail below), electrification projects that took six months to design and construct now take a year or more. We anticipate supply chain shortages to worsen when numerous operators attempt to pursue the same types of projects to comply with the new regulations.

We were unable to locate in the docket the cost that EPA applied for extending electrical power to well sites. Where the local electric cooperative has allowed operators to install their own distribution lines, a typical cost has been in the range of \$100,000 per mile for construction only plus additional costs to negotiate right-of-way, conduct other required studies, and obtain other required approvals. Moreover, where the electric cooperative has insisted on installing the lines themselves at the oil and gas operator's expense, costs have been many times that amount, in some cases even exceeding a million dollars per mile. Furthermore, local electricity pricing typically involves peak demand pricing that results in actual costs double the quoted normal cost per kilowatt-hour.

For well sites where operators investigated the use of generators or solar power, they have received widely varying cost estimates depending on the attributes of the site and the most appropriate option.

The costs to electrify oil and gas operations in Utah cannot be compared to the costs to electrify operations in Colorado. Utah costs can be substantially higher due to factors such as fewer distribution lines available, available lines have less available capacity in Utah's more sparsely populated oil and gas producing area, electric distribution ownership by a small electric cooperative with unique approaches compared to a utility company, policies and pricing from the local electricity cooperative, policies of the Tribe for operations on Tribal lands, and complex terrain. Utah operators have found no standardization of policies or costs between electrifying a well site in Utah with the local electric cooperative compared to the myriad of other electricity suppliers in other states where they operate.

Furthermore, where electricity cannot be obtained from the power distribution system, electrification of a well site may be done with gas-powered generators, often a less expensive path but with their own environmental impact including both NO<sub>x</sub> and VOC emissions.

For all these reasons, we request that EPA provide a similar exemption from zero-emission pneumatic controllers in Utah that it has provided for sites without electricity in Alaska. To electrify Utah oil and gas producing properties, some properties may be relatively easy to electrify, some may be more difficult and more expensive, and some may be infeasible or virtually impossible. Even where feasible, as explained in more detail below, electrification projects will be affected by supply chain and labor shortages.

**5. Wells with associated gas must be allowed to use the gas as an onsite fuel source even when natural gas pipeline takeaway capacity is available.**

EPA proposes that gas from oil wells with associated gas be routed to a sales line and in the event that access to a sales line is not available, it may be used onsite as a fuel source or routed to a flare or other control device.<sup>11</sup> This wording suggests that the gas cannot be used as an onsite fuel source or routed to a flare or other control device if a sales line is available.

We do not agree with this approach. The rule must allow using the gas as an onsite fuel source whether a sales line is available or not. This will improve cost effectiveness of the rule by not requiring expensive retrofits to add new power sources in locations such as rural Utah that may not have ready access to electrical power or might have other limitations and other obstacles as described above.

Furthermore, even if a sales line is available, most oil wells in Utah do not produce gas at a high enough pressure to put the gas into a sales line and therefore would require a compressor at substantially added cost and additional use of energy and associated emissions. The Bureau of Land Management recognized this fact in their final waste gas prevention rule wherein they included exemptions from requirements to route gases to a sales line where the operator determines that compliance would be technically infeasible or unduly costly.<sup>12</sup>

EPA requested comment on productive uses of captured gas.<sup>13</sup> Use as an onsite fuel source should be considered a “productive use.” The gas may be needed to power electric generators where electricity is not available or even to power backup generators such as where solar power lacks the required reliability.

**6. UPA supports a final rule with maximum flexibility so that smaller businesses can continue to effectively compete in the global marketplace.**

Some Utah oil and gas operators qualify as Small Businesses under the Small Business Administration (“SBA”).<sup>14</sup> Others may not qualify under the SBA rules but are nonetheless smaller businesses. These small businesses appreciate all the operating flexibility that EPA can provide

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<sup>11</sup> Proposal, p. 63183.

<sup>12</sup> See “Waste Prevention, Production Subject to Royalties, and Resource Conservation” final rule; Federal Register Vol. 81, No. 223; November 18, 2016; p. 83008; rule language as adopted at 43 Code of Regulations, Chapter II §3179.203(c)(2) on p. 83086.

<sup>13</sup> Proposal, p. 63183.

<sup>14</sup> See SBA rules at 13 CFR Subpart A §121.

in the final rule package. Towards that end, we provide comments on specific rule issues where we request that EPA provide flexibility.

EPA has asked for comment on its proposed OOOOc Best System of Emission Reduction (“BSER”) requirement for quarterly Method 21 (“M21”) or optical gas imaging (“OGI”) leak detection surveys for all sites with greater than or equal to 3 tons of methane emissions per year compared to an alternate co-proposal of semiannual monitoring for sites greater than or equal to 3 tons of methane per year but less than 8 tons of methane per year and quarterly monitoring for sites greater than or equal to 8 tons per year.<sup>15</sup> UPA supports the co-proposal with semiannual monitoring for the sites between 3 and 8 tons of methane per year.

UPA opposes the elimination of the small volume exemption for wells smaller than 15 barrels per day. We encourage EPA to retain the exemption or to apply a reduced monitoring frequency, certainly no more than semiannual, for these sites.

EPA asked for comments on whether scheduling of repairs should be tiered.<sup>16</sup> While we support tiered approaches to fugitive monitoring, we do not support tiered approaches to repairs for components monitored by OGI or M21 due to the complexity and larger burden this would place on small companies. A tiered approach to repairs applies unnecessary constraints on an already complex system. Furthermore, the supply chain shortages and labor shortages discussed in more detail below would make this even more difficult to successfully execute.

Nonetheless, we support tiered approaches to repair emission leaks found by alternative flyover screening and advanced measurement technologies. In this case, a very large number of sites will be surveyed over the course of a single day or a few days and all results provided to the operator at one time or over a relatively short period of time. The requirement to quickly repair all leaks and resurvey with OGI or M21 within a relatively short period of time may overwhelm smaller operators and discourage them from using these helpful technologies. A tiered approach to leak repair based on prioritizing the largest leaks to be repaired first and allowing considerably longer time for the smallest leaks would provide much needed flexibility and encourage small operators to use flyover screening technologies.

Smaller companies will need the maximum time possible to address procedural issues. Developing new procedures will place a larger burden on smaller operators with smaller staffs where people already typically carry multiple responsibilities. For example, changing well unloading procedures to eliminate or minimize venting<sup>17</sup> will be more difficult for small operators with fewer staff to take on developing and testing new procedures and new engineering approaches to the issue. One Utah operator reports they are looking for solutions to this issue for their Colorado operations that would eliminate emissions from well unloading without the aid of flares to combust the emissions and anticipates needing several years to engineer solutions and install them at all applicable sites. EPA could reduce this burden by establishing an emissions threshold or annual count to trigger well unloading requirements. Additionally, if a well must be shut in temporarily and the well requires unloading to be brought back online, would this situation meet the applicability? In considering whether it would be technically feasible to control well

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<sup>15</sup> Proposal, p. 63169.

<sup>16</sup> See discussions in Proposal for fugitive emissions on p. 63172 and for fugitives at compressor stations on p. 63174.

<sup>17</sup> See Proposal, p. 63179.



unloading emissions, what exemptions would apply? Similarly, developing detailed fugitive emission plans may also be more difficult.

One small operator noted that due to the number of wells that they operate, if they retrofit one facility per day, they will need nearly five years to complete required retrofits!

EPA stated their belief that it could be difficult for the State plans to include “an inventory of all designated facilities, including emission data for the designated pollutants and information related to emissions as specified in appendix D to this part” as required by the first sentence in 40 CFR 60.25a(a). EPA further explained however that it may supersede any requirement in its implementing regulations for CAA § 111(d) if done so explicitly in the EG, in this case in EPA’s OOOOc regulations. Thus, EPA is seeking comment on how to address the CAA requirement that State plans must require submission of emissions data unless superseded in the EG. UPA contends that submitting additional emissions inventory on an equipment-by-equipment basis for methane as a GHG would be unnecessary and duplicative of already established GHG reporting requirements. UPA supports not requiring additional equipment and emissions reporting. Such unnecessary reporting would overly burden operators and especially small operators.

In summary, UPA supports including as much flexibility in the final rule as possible, not over-constraining requirements, and not adding unnecessary complexity. A final rule that meets these criteria will help to ensure that operators and especially small operators can continue to compete effectively in the global market.

**7. Utah suffers from a more acute labor shortage than other states and needs extended initial compliance timing to allow operators to come into compliance with new requirements.**

Utah suffers from a more acute labor shortage than nearly all other states. The shortage affects the time needed for oil and gas operators to complete projects such as electrification, leak detection monitoring and repair, and other equipment modifications. As of November 2021 (the latest data available as of this writing), Utah has one of the lowest unemployment rates in the country, ranking second lowest out of 50 states and with unemployment rates below 3% for most of 2021.<sup>18</sup> Also as of November 2021, the oil and gas producing areas of Utah, namely Duchesne and Uintah Counties, have their lowest unemployment rates in over twenty years, both below 3%.<sup>19</sup> With such low unemployment rates, the short supply of skilled labor has considerably slowed the ability of operators to complete projects and to commence new initiatives.

One small example of where the labor shortage will affect Utah operator ability to meet the myriad of new requirements is in the leak detection and repair, where one Utah operator estimates the new requirements will triple the required number of leak detection and repair workers. Considering the labor shortage vis-à-vis the time needed to develop and implement new procedures, we support EPA’s proposed 180 days to come into compliance with methane

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<sup>18</sup> Data obtained from the National Conference of State Legislatures at <https://www.ncsl.org/research/labor-and-employment/state-unemployment-update.aspx> (accessed on January 9, 2022).

<sup>19</sup> Utah county-specific data obtained from the Utah Department of Workforce Services at <https://jobs.utah.gov/jsp/utalmis/#/laborforce/areaname/Weber/periodyear/2021/adjusted/0/monthly/true/annualaverage/true> (accessed on January 9, 2022).

standards for the equipment leaks at onshore natural gas processing plants.<sup>20</sup> However, we also recommend that the initial compliance period for leak detection on any equipment in operation prior to the promulgating this final rule be extended to 365 days to address the planning needed and challenges resulting from the labor shortage.

**8. Supply chain shortages may make it difficult or impossible to meet some compliance dates and therefore EPA should provide as much time as possible for implementation and provide for case-by-case extensions where needed.**

In addition to the labor shortage and the special needs of smaller operators, supply chain shortages make it much more difficult to implement equipment modifications and repairs. Therefore, we request as much time as possible to bring existing facilities up to new standards after final rule promulgation.

Projects that once took six months to complete now require a year or more. One operator in Utah reports that delivery times for pumps, boilers, combustors, flares, tanks, pipe, and especially air compressors have all increased from two to three weeks now to four to six months. The company reports that all their new facilities are running on compressed air and electricity rather than using gas but many of the electrical parts such as control panels, transformers, and automation hardware are harder to find in stock from suppliers. Most vendors will not give a delivery date and instead say “to be determined.” Not only has the company had difficulty obtaining parts but has experienced rising prices due to supply and demand.

In changing the threshold for tanks from a single tank with the threshold quantity of emissions to a battery, EPA provided no timing for existing sources to come into compliance, but the supply chain and labor shortages will require longer times than EPA would have estimated a few months or a year ago. A similar case exists for zero-emission controllers, a problem that will be even more acute in Utah where many sites lack access to electrical power. Companies may need to obtain parts well in advance to manage reciprocating compressor rod packing replacement under the proposed emissions threshold rather than under the existing time threshold.<sup>21</sup>

EPA should provide three years for existing new facilities to come into compliance with OOOOb. Similarly, states should be encouraged to allow as much time as possible for facilities to come into compliance with regulations adopted in-state to address OOOOc EGs. Otherwise, acute regional shortages may occur. EPA is soliciting comment on whether a 2-year compliance time is sufficient for complying with state plans submitted under the EGs or if it should be longer or shorter.<sup>22</sup> Due to the uncertainties imposed by the supply chain shortage as well as the labor shortage, we recommend that EPA allow up to three years for implementation for both existing new facilities under OOOOb and for existing facilities under the EGs, especially considering the many thousands of facilities nationwide that will be competing to obtain the same types of equipment.

Furthermore, EPA should allow case-by-case extensions of the compliance dates. No one can foresee the compounding effects on supply chains and skilled labor of the vast number of facilities attempting to comply with the same rules at the same time. Case-by-case extensions to the compliance date may be the only feasible alternative for many facilities.

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<sup>20</sup> Proposal, p. 63168.

<sup>21</sup> See Proposal, p. 63180.

<sup>22</sup> Proposal, p. 63256.

Supply chain shortages coupled with the highest inflation rate the United States has seen in decades may cause prices to escalate well beyond EPA's cost estimates.<sup>23</sup> These higher prices can affect the profitability of smaller businesses and low volume wells. Allowing as much time as possible for installation of equipment and for repairs may temper price increases to some degree.

**9. EPA must not impose overly restrictive requirements around advanced measurement technologies that will discourage their use especially among smaller operators.**

Flyover technologies have not been proven to work at certain times of the year such as with snow cover, during prolonged wintertime inversions, and possibly in very cold conditions, all of these conditions experienced during Utah winters. Thus, operators in Utah would need to be able to conduct their leak detection monitoring with a mix of alternative advanced measurement technology and OGI. We therefore recommend that advanced measurement technology be allowed as a substitute for OGI on a per-monitoring-event basis. In this way, OGI could be implemented for some monitoring events and advanced measurement technology for other events. Using a mix of technologies would have the added benefit of possibly identifying more leaks of different kinds than using only a single technology and would allow operators the needed flexibility to schedule the type of survey around availability of services and anticipated weather conditions.

The Proposal would require alternative screening surveys using advanced measurement technology to be done every other month.<sup>24</sup> This frequency is too high, puts an unnecessary burden on operators and especially on smaller operators who have less flexibility among their workforces, a burden made worse by the labor shortage, and conflicts with the need described above to be able to employ different technologies for each monitoring event throughout the year. Leak detection monitoring with advanced measurement technologies should require no more than the same frequency as leak detection by other methods.<sup>25</sup>

EPA asked for comments on cost sharing for alternative screening using advanced measurement technologies, e.g., if opportunities exist, anything that might be beneficial or detrimental in the regulation.<sup>26</sup> UPA supports cost sharing as a means to cost-effectively deploy advanced technology for smaller companies over a wide geographic area; in fact, some of our member companies are exploring cost sharing now for voluntary uses of these technologies. Without cost sharing, the expense may put the technologies out of reach for some operators, especially smaller operators. Ensuring that nothing in the regulation constrains cost sharing will help to encourage smaller operators to use these valuable advanced technologies. As explained further below, complex site-specific or equipment-specific plans for EPA approval would discourage cost sharing and thus reduce the use of these helpful technologies.

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<sup>23</sup> The inflation rate for 2021 was 7%. See U.S. Bureau of Labor Statistics at <https://www.bls.gov/news.release/cpi.nr0.htm> (accessed January 23, 2022).

<sup>24</sup> Proposal, p. 63175.

<sup>25</sup> A modeling study using the LDARsim model shows that EPA's proposed alternative screening surveys using advanced measurement technology six times per year results in a far more rigorous LDAR program than quarterly OGI monitoring. See "EPA OOOOb/c Alternative Monitoring Recommendations" by Ryan Streams, January 13, 2022, located at [https://kairos aerospace.com/wp-content/uploads/2022/01/Kairos-EPA-OOOOb-c-Recommendations\\_220112\\_FINAL.pdf](https://kairos aerospace.com/wp-content/uploads/2022/01/Kairos-EPA-OOOOb-c-Recommendations_220112_FINAL.pdf) (accessed on January 27, 2022).

<sup>26</sup> Proposal, p. 63176.

We oppose the proposed 14-day OGI follow-up for leaks identified with advanced measurement technology. Especially with initial uses of the technology, operators may identify several emission sources. Each one will need to be examined individually to determine the cause of emissions and whether the cause is an unintentional leak, or something related to normal operations. This will require staffing hours and time and, with the labor shortage, may be even more difficult than in the past. At a minimum, operators need 30 days to respond to each emission identified during a flyover event but can prioritize responses based on size of emission. Notwithstanding our lack of support for tiered repair timing for M21 or OGI monitoring, tiered or prioritized repair timing based on size of leaks for leaks identified with advanced measurement technology would encourage the use of the technology; it would provide a means to manage what might otherwise be an overwhelming amount of repair work identified by an extensive flyover campaign and EPA could provide a longer time period to complete repairs of smaller leaks.

Furthermore, repair timing for these advanced measurement technologies should be counted from date of receipt of results, not the day of survey. Unlike OGI or M21 with immediately available results, it may take several days for the advanced technology company to calculate results and to provide them to the operating company that owns the leaking equipment. Cost sharing flyovers will further complicate and possibly delay delivery of results to one or more operators within a cost share group while the technology company divvies its findings between the companies in the cost share group. Any shortening of repair timing resulting from the time lag between the flyover and receipt of results would further constrain repairs and discourage small operators from using advanced technology.

EPA requested comment on whether Agency approval before utilizing the advanced measurement technology is necessary.<sup>27</sup> The individual operator-specific and equipment-specific approvals required for advanced measurement technology impose too great of a burden on the industry as a whole and especially on small operators. Instead, we recommend that these approvals be required for the technology company, not the operator relying on the technology to find leaks in its equipment. Such approvals should not be equipment specific to the equipment being monitored and should only be specific to the type of equipment or sensor used to do the monitoring and the monitoring and monitoring calculation methodologies. This would streamline approval and reduce the burden overall. Thus, it will encourage smaller operators to use these beneficial technologies.

Alternatively, a single protocol for utilizing advanced measurement technology between two or more companies that may share flyovers could also be a way to reduce the burden and would encourage smaller companies to cost share on flyovers. For this approach to be useful, the approval must not be specific to the equipment being monitored.

**10. EPA should not require loading tank liquids into pipelines, a requirement that would be impractical and impossible in Utah with its waxy crudes.**

EPA is seeking comment on whether to require controls on tank truck loading and is specifically considering directly piping liquids downstream.<sup>28</sup> Tank truck loading only accounts for 1.1% of the

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<sup>27</sup> Proposal, p. 63176.

<sup>28</sup> Proposal, pp. 63244 – 63245.

Utah oil and gas emissions inventory, a very small amount.<sup>29</sup> Thus, additional truck loading requirements would have only marginal benefit at best.

EPA's Control Techniques Guidelines for oil and gas do not include tank truck loading controls. Nonetheless, Utah already has regulations in place requiring a vapor capture line plus bottom filling or submerged fill<sup>30</sup> and EPA's proposed FIP requires bottom fill or submerged fill for tank truck loading.<sup>31</sup>

Utah's crude oil has a very high wax content and pour points well above typical ambient temperatures and must be stored in tanks heated to approximately 160 degrees Fahrenheit. It would be impractical and impossible to directly pipe the liquid downstream in a standard non-heated pipeline because the wax would solidify at cooler ambient temperatures, rendering the crude oil impossible to pump. We do not recommend heating the pipelines because it consumes additional energy resulting in greater greenhouse gas emissions. Moreover, a recent study by three Utah Universities found that Utah crude oil could be mixed with condensate to improve pipeline pumpability but would still likely require the addition of chemical additives to serve as flow improvers or pour point depressants.<sup>32</sup>

#### **11. EPA should retain previously EPA-approved state fugitive emission standards including Utah standards.**

The Proposal discusses state fugitive emission standards that EPA previously approved including standards for Utah, "EPA is now proposing that all well sites and compressor stations located in and subject to the specified State regulations in 40 CFR 60.5399a may utilize these alternative fugitive emissions standards for both methane and VOC fugitive emissions."<sup>33</sup> We support retaining this approval.

#### **12. Conclusion**

UPA supports the appropriate regulation of methane and VOC emissions. Yet Utah oil and gas operations have a number of unique aspects that EPA must take into account in proposing rule language and finalizing the OOOOb and OOOOc regulations. Most notably, our operations on Tribal lands and within an ozone nonattainment area, our unique waxy crude oils, our remote operations that do not lend themselves easily or within reasonable cost to electrification, our labor shortage more acute than elsewhere in the country, and our small operators all require consideration in the final rulemaking. These considerations will help to ensure promulgation of a practical and cost-effective rule for all and that will not drive small operators out of business.

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<sup>29</sup> See "2017 Uinta Basin Oil and Gas Emission Inventory" located on Utah Division of Air Quality website at <https://deq.utah.gov/air-quality/statewide-oil-gas-emissions-inventory> (accessed on January 9, 2022).

<sup>30</sup> Utah Administrative Code, R-307-504(4).

<sup>31</sup> Proposed FIP, proposed rule language for 49 CFR 49.4180, p. 3532.

<sup>32</sup> See "Characterization of Waxy Crude Oil in Pipelines", 2014-2015 Final Report, authored by the Utah Energy Research Triangle Project (a collaboration between Utah State University, the University of Utah, and Brigham Young University); available on the Utah State University website at <https://www.usu.edu/binghamresearch/files/reports/Utah-Energy-Research-Triangle-Project-Final-Report-March-2015.pdf> (accessed on January 23, 2022).

<sup>33</sup> See Proposal p. 63167 and 40 CFR §60.5399a(n).

Comments from Utah Petroleum Association re EPA Proposal for New Source Performance Standards and Emissions Guidelines for the Oil and Natural Gas Sector, Docket Number EPA-HQ-OAR-2021-0317.

Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Rikki Hrenko-Browning". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Rikki Hrenko-Browning  
President  
Utah Petroleum Association

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