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Submitted via email

April 12, 2012

Valerie Jarrett  
Senior Advisor to the President  
The White House  
Washington, DC 20500

Dear Ms. Jarrett:

The Office of Information and Regulatory Affairs (OIRA) is currently reviewing a proposed rulemaking document submitted by the Environmental Protection Agency (EPA) with regard to its authority under the Clean Air Act (CAA) to regulate New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the Oil and Gas Sector (NSPS rule). We understand that the EPA is subject to a court order requiring the final rule to be signed by April 17, 2012.

The Independent Petroleum Association of America (IPAA) represents thousands of independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts, that will be the most significantly affected by the proposed actions. The EPA's proposed rules would expand regulations for oil and natural gas production, processing, transmission, and storage, while simultaneously imposing the first-ever federal air standards for all natural gas wells that are fractured. Due to the expansive nature of these rules, hundreds of thousands of American natural gas development operations could be affected and, as such, risks the jobs of hundreds of thousands of Americans whose livelihoods are dependent on the ability to explore for, and produce, oil and natural gas in the United States.

IPAA has worked with the EPA regarding the NSPS rule to balance the environmental benefits the EPA seeks to achieve with the economic livelihood of America's independent oil and natural gas producers. IPAA engaged the EPA in the fall of 2011 to discuss its concerns with the NSPS rule on small operators. IPAA again met with the EPA, including officials from the Office of Air and Radiation, on March 23, 2012, to discuss the disproportionate impact on small operators and the unworkability of the NSPS rule. Moreover, IPAA met with OIRA for an EO12866 meeting on April 2, 2012 to articulate its concerns regarding the impact the NSPS rulemaking would have on small operators and job creation.

A significant element of the proposed rulemaking appears to be targeted toward larger natural gas wells, with horizontal legs. Nevertheless, the rule would apply to **all natural gas wells that are fractured** – including smaller vertical well operations that do not have the same emissions profile as their larger counterparts with horizontal components. To make the rule more scientifically sound, IPAA would encourage the EPA to delay the implementation of the NSPS rule until new data could be collected and a more thorough cost benefit analysis for the emission completions requirements could be undertaken. In the alternative, IPAA would encourage the EPA to exempt natural gas wells without horizontal legs (i.e. vertical wells) from the NSPS rulemaking. Similarly, IPAA supports proposals to limit the application of the rule to wells meeting a minimum threshold of volatile organic compounds (VOC); however, this modification would not fully address the vertical well issue.

1. **Delay the NSPS rulemaking until accurate data is collected.** IPAA is concerned with the foundational data the EPA has used to calculate emission estimates from natural gas producing wells. These estimates are based on producer-reported data via the EPA Natural Gas Star program, which compiled information on the volume of gas recovered by the practice of “green completions” from a very limited number of wells. This information has been misused and led the EPA to erroneously conclude that when “green completions” are not performed, or when flaring is not legally required, methane is otherwise vented into the atmosphere.

The use of flawed data has led to grossly overestimated emissions and has ultimately resulted in a distortion of the agency’s required cost-benefit analysis. Reports have shown that, in some cases, the EPA overstated emissions estimates by over 1,400 percent. When these numbers are corrected, EPA’s proposed requirements grossly fail its own cost-effectiveness standards. As such, IPAA would encourage the postponement of the NSPS rulemaking until accurate data is collected.

2. **Exempt vertical wells from the NSPS rulemaking.** EPA’s definition of a natural gas well applies its NSPS requirements to any natural gas well completion that uses hydraulic fracturing. The sweep of this definition would capture natural gas well completions that include only a vertical component and wells with both vertical and horizontal components. However, it is clear that in developing its basis for its reduced emissions completion (REC) or “green completion” technology, the EPA bases its determinations on well completions with horizontal legs. Yet, the EPA would require the same controls for vertical wells drilled by smaller companies where the emissions would be far less. Moreover, not all fractured wells use the same technology. As IPAA details in its comments to the proposed rule, many wells are fractured using a nitrogen based process that is not consistent with the REC technology and would prevent these wells from being developed.

Many of America's independent oil and natural gas producers are small businesses that drill only vertical wells and operate marginal wells/oil fields because of the capital requirements for large horizontal operations. As such, the EPA's NSPS rule for the oil and gas industry would create a disproportional and detrimental impact on these independent oil and natural gas producers since these independents would not be able to afford the technologies necessary to satisfy such onerous requirements. The average independent has been in business for 26 years and employs 11 full-time and three part-time employees. In total, America's onshore independent oil and natural gas producers supported 2.1 million jobs in the United States in 2010.

- 3. Threshold for application of REC regulation.** IPAA supports using a minimum threshold for the REC regulation to provide for a cost effective application of the rule.

Similar issues arise with regard to the NSPS rule on storage vessels. The NSPS rule applies to oil and condensate storage tanks and present both issues associated with the impact on small businesses – particularly with regard to regulations being applied to “modified” tanks and associated with the underlying data to justify action. Compounding these aspects is the EPA's decision to propose a performance based requirement of a 95 percent reduction in emissions. While the proposal is cast as a NSPS, it would also apply if a facility is considered to be modified. EPA has attempted to simplify the determination of whether a facility is subject to the regulation by using a throughput basis – 20 barrels/day for crude oil and one barrel/day for condensate. While simpler, the throughput approach is not technically sound or supported by the data. However, it can result in substantial exposure consequences for marginal well operators.

Storage tank capacity must be designed to manage production when a production site is initiated. Over time, production declines. As a well field develops, additional wells are piped to common storage tanks in a tank battery. This basic tank battery system remains in place as existing wells decline and are plugged, as new wells are drilled and begin production, and as existing wells are reworked to increase production. An average marginal well in the United States produces about two barrels/day. When a well is reworked, its production may increase to four or five barrels/day for six or eight months before declining back to its prior flow rate. Even though EPA bases its throughput thresholds on an annual average of daily production, clearly, the consequences of normal well field development could result in a storage tank being under the threshold for one year, over the threshold the next year and below again the year after. Under the proposed NSPS rule, exceeding the threshold would require equipping the tank with a vapor recovery unit (VRU) or flaring system that would no longer be required by the time it was in place.

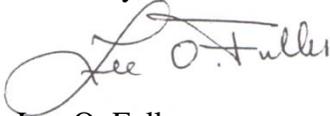
IPAA believes that sources should have the ability to estimate VOC emissions from storage tanks rather than be constrained to a throughput based process. If the EPA continues to pursue a throughput based approach, it needs to recognize that a more sophisticated approach should be developed. A critical action that the EPA needs to take is addressing the issue of applying its regulations to existing tanks. It needs to develop an approach that does not create an unreasonable burden on existing production,

particularly marginal well operations, resulting from short term increases in production. Nearly 80 percent of the oil wells in the United States are marginal wells (i.e. wells that produce less than 15 barrels of oil per day). Moreover, marginal wells produce 20 percent of oil in the United States. The current rulemaking risks shutting in 20 percent of domestic production since the technology requirements envisioned under the rule would not be economical for marginal well operations. Consequently, IPAA recommends that the EPA withdraw the current proposal, develop better emissions assessments and subsequently revisit the technology requirements.

IPAA's comments in the docket further detail its concerns regarding the data underlying the NSPS rule as well as the disproportionate impact the NSPS rulemaking would have on small, independent oil and natural gas producers. In short, this rulemaking could eliminate thousands of small producers from the marketplace – producers who only have the financial means to drill a limited number of vertical wells each year – thereby risking tens of thousands of American jobs. Simply put, the proposed NSPS does not meet the requirement of the Clean Air Act that it is "...a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." On the points described above the technology is neither cost effective nor adequately demonstrated.

IPAA appreciates your attention to this rulemaking and your efforts to balance small business viability with the environment. Should you have any questions please feel free to contact me at 202.857.4731.

Sincerely,

A handwritten signature in black ink that reads "Lee O. Fuller". The signature is written in a cursive style with a large, looping initial "L".

Lee O. Fuller  
Vice President of Government Relations  
Independent Petroleum Association of America

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