

**Testimony
of
Drew Martin
Co-Founder & Managing Partner, Miller Energy Company**

*House of Representatives Energy and Commerce Committee
Environment, Manufacturing, and Critical Materials Subcommittee*

Hearing:

“Protecting Clean American Energy Production and Jobs by Stopping EPA’s Overreach”

January 10, 2024

Introduction

Chairman Johnson, Ranking Member Tonko, and Members of the Subcommittee. Thank you for the opportunity to testify this morning. My name is Drew Martin, and I am a Co-Founder and the Managing Partner of Miller Energy Company (Miller), a privately owned oil-and-gas production company that ***develops energy and empowers people***.

After spending several years reviewing brokered oil-and-gas transactions all over the country, and spending a substantial amount of time traveling to Houston, Tulsa, and Denver; my cousin and business partner, Luke Miller, and I made the decision that as a privately-owned oil business we couldn’t compete with the amount of money that large private-equity funds and publicly-traded businesses were able to put to work.

Michigan’s oilfields are ingrained in our family history, a legacy spanning four generations. In 2017, Luke and I, armed with entrepreneurial spirit, established Miller Energy Company. Starting as a team of five and having a focused vision, we entered the Michigan basin as informed insiders but with a fresh perspective. We understood the intricacies of the Michigan basin, its regulatory landscape, and its potential. We believed Michigan was ripe for attention and investment.

At Miller, our strategy is to acquire existing Michigan oilfields that are often deemed well beyond their peak. We then use technology and data-driven decision making to unlock reserves, optimize operations, and maximize efficiency. We are currently producing roughly 670 barrels of crude oil per day from 468 active wells, have 56 employees, and operate assets in 15 counties. We generate

royalty checks for more than 2,000 people each month, an income that many recipients often rely in part to live on (Michigan has over 65,000 royalty owners¹). In support of our growth ambitions, we have raised equity and taken on debt. We are a young-and-growing small business that provides sustainable and reliable energy to help fuel this country.

The value and demand of our product expands far beyond transportation. Crude oil is a key component in over 6,000 products.² The clothes we wear, the tubes containing our toothpaste, the paint we use, and the plastic finishes in almost everything we touch. Even electric vehicles cannot exist without crude-oil components. We believe strongly that crude oil plays a vital role in our society and our economy and believe that will remain the case for many years and generations to come.

Impact of the EPA's Methane Tax and Performance Standards

If the Inflation Reduction Act's Methane Tax³ and the Performance Standards outlined in OOOO(b) and OOOO(c)⁴ by the Environmental Protection Agency (EPA) are implemented as written, ***my business and the business of many of my peers in Michigan will end abruptly, synthetically creating an inordinate amount of plugging liability across the state.***

Miller's oil production and that of many other operators in Michigan is categorized as marginal production. This is common in a mature basin with old wells because the pressure and volumes decline as wells age. EPA is attempting to reduce methane emissions by regulating marginal-well production but has failed to accurately understand and account for the unique characteristics of this type of production. Marginal wells, like Miller's, simply don't have the volume, pressure, and associated emissions to be burdened with the energy, effort, and cost associated with complying with these regulations as written. These standards do not achieve the EPA's target when specifically looking at marginal-well-production characteristics. Past rules recognized this

¹ NSWA. (2021). NSWA 2021 Percentage Depletion Booklet. Publitas. <https://view.publitas.com/newsletter/nswa-2021-percentage-depletion-booklet/page/1>.

² U.S. Department of Energy. (n.d.). Products Made From Oil and Natural Gas Infographic. Energy.gov. Retrieved January 6, 2024, from <https://www.energy.gov/sites/prod/files/2019/11/f68/Products%20Made%20From%20Oil%20and%20Natural%20Gas%20Infographic.pdf>.

³ Clean Air Act, § 136, 42 U.S.C. § 7436 (2022).

⁴ The Final Rule and Regulatory Text, along with other documents issued by the EPA on December 2, 2023, can be found at <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-operations/epas-final-rule-oil-and-natural-gas>. As the pages of the Final Rule and Regulatory Text are not numbered, page references are made to the page number in the page finder toolbar.

difference and offered exemptions or accommodations for marginal wells. Or said more simply, shouldn't these rules more accurately align the potential emission risk with the burden of compliance?

A one-size-fits-all regulatory structure cannot accurately apply to different types of production, different basins, and different geographic areas of the country. We prefer and believe State management of methane emissions is the best way to ensure safe and reliable production. State regulators are in the field and informed about the unique geology and specifics of each well.

A startling truth: Michigan has roughly 4,000 oil wells. In recent conversations with other operators and state regulators, **we estimated that as much as 75% of these wells** would become uneconomic (i.e. not worth continuing to operate and will likely be shut in) due to the compliance burdens attributable to OOOO(c). If proven true, 3,000 wells would immediately shift from producing revenue, to requiring plugging and remediation efforts. If all vested businesses in Michigan were to put forth a concerted effort to plug those 3,000 oil wells, it is anticipated that available equipment, people, service providers, and state regulators would have capacity to reach at best 300 wells per year, creating a backlog of ten years.

The potential danger, economic impact, and environmental risk of 3,000 wells sitting idle and abandoned for up to ten years is far greater than the environmental impact of marginal wells producing meaningful energy with de minimis emissions. Not to mention the incredible economic waste created by not producing a product that, as mentioned above, substantially contributes to daily life. There will be lost royalty payments, jobs, tax revenues, and community benefits like the Michigan Natural Resources Trust Fund that would lose revenues to fund parks and projects throughout the state.⁵

After our initial review of OOOO(b), OOOO(c), and the Methane Tax; it's not clear to us what the actual annual reductions of methane will be in Michigan. That leaves me asking, in ten years, how will we, and you as lawmakers, know these actions made a difference to our quality of life?

We will certainly know what it cost Miller and the communities in Michigan in terms of reduced domestic supply of energy and the additional environmental liability from what will become unmanaged wells waiting to be plugged and remediated. Allowing wells to follow their natural economic life, with regulations that allow appropriate management, is a better solution.

⁵ Michigan Department of Natural Resources. (2022). Michigan Natural Resources Trust Fund (MNRTF). Retrieved January 6, 2024, from <https://www.michigan.gov/dnr/buy-and-apply/grants/rec/mnrft>.

In short, these EPA standards will put Miller and conceivably many similarly situated oil and gas operators out of business, but in exchange for what gain?

Inflation Reduction Act's Methane Tax

Miller is requesting a stay on the Inflation Reduction Act's Methane Tax⁶ until both the Greenhouse Gas Reporting Program's Subpart W⁷ and Standards of Performance for New Stationary Sources Subpart OOOO(c)⁸ regulations have been fully implemented and the compliance exemption is clearly attainable through finalized state and tribal regulations. Until this is achieved, it is simply a penalty for being an oil and gas operator.

Subpart W is the foundation of the IRA's Methane Tax ("Penalty") as it provides the rules and calculations that determine applicability of the regulation to producers and the reported-methane-emissions calculation.⁹

Emission Year	Tax Year	Tax Rate per Methane Metric Ton	CO2e (Metric Tons)	Methane (Metric Tons)	Annual Tax
2024	2025	\$900	25,000	1,000	\$900,000
2025	2026	\$1,200	25,000	1,000	\$1,200,000
2026+	2027+	\$1,500	25,000	1,000	\$1,500,000

As illustrated, Subpart W will require producers that sell minimal gas to pay nearly \$900,000 of penalties in 2025 if their calculated methane exceeds 25,000 metric tons of CO2 equivalent for 2024 emissions.¹⁰ The tax categorizes businesses as gas sellers or not. Businesses like Miller are placed into a

gas-seller category that does not provide the appropriate reduction compared to businesses with large gas sales. Miller can pay more for less emissions than a large gas seller. This calculation is another example of why the regulations need to account for the variability in business models and a one-size-fits-all method does not work.

Additionally. There is concern is that EPA can make one change to the Subpart-W formula, resulting in altered tax liability, without going through the formal-tax-legislative process. This is not a far-fetched concern. EPA has been working on proposed changes to Subpart W for

⁶ Clean Air Act, § 136, 42 U.S.C. § 7436 (2022).

⁷ 40 C.F.R. § 98.W (2010).

⁸ The Final Rule and Regulatory Text, issued by the EPA on December 2, 2023, can be found at <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-operations/epas-final-rule-oil-and-natural-gas>.

⁹ 40 C.F.R. § 98.231 (Subpart W reporting thresholds).

¹⁰ Clean Air Act, § 136, 42 U.S.C. § 7436(e)(2) (2022).

several years, but the last draft, prompted by the IRA, still lacked the necessary clarity to perform an accurate analysis of the impact. Many producers, like Miller, are unsure if they will be subject to the penalty and if so, what their penalty amount will be. The only thing that is certain is the tax rate per metric ton of methane, should a producer be required to participate in the Greenhouse Gas Reporting Program (GHGRP).

Based on current-calculation methods, Miller has remained under the 25,000 metric tons of CO₂e for the last six years and is exempt from the GHGRP. However, we are concerned that the anticipated changes of Subpart W would bring Miller back over the threshold, making Miller required to participate in the GHGRP again and subjecting Miller to a minimum of a \$900,000 Penalty for 2024 emissions.

EPA has identified the need for an exemption from the Inflation Reduction Act's Penalty for producers that meet outlined performance standards.¹¹ However, attainment is not feasible until all states and tribes develop and implement their respective OOOO(c) regulations.¹² It is anticipated that OOOO(c) regulations will not be finalized for up to 60 months (the outlined timeframe provided by the EPA for states and tribes to develop and implement State Implementation Plans).¹³ Until producers can be eligible for the intended compliance exemption, the Penalty should be stayed.

We are also concerned with the implications of an enforcement body now also becoming a taxing authority, a power delegated to the IRS. EPA has been set to serve as both the enforcer of the regulations related to methane emissions and the entity responsible for collecting taxes associated with those emissions. We believe this dual role will lead to questions about the objectivity and potential biases in regulatory decisions, as EPA has a financial interest in maximizing tax revenue.

Furthermore, complications arise from the auditability of Subpart W data due to the lack of clarity in calculations and regulatory requirements. Without clear guidelines for calculations and

¹¹ Clean Air Act, § 136, 42 U.S.C. § 7436(f)(6)(a) (2022). exempts businesses from paying the Penalty only if the following conditions are met: (1) Sections 111(b) and (d) of the Clean Air Act (the Performance Standards) "are in effect in all States with respect to the applicable facilities" and (2) compliance with Sections 111(b) and (d) "will result in equivalent or greater emissions reduction as would be achieved by the" proposed rule under those sections "if such rule had been finalized and implemented."

¹² ID.

¹³ The Final Rule and Regulatory Text issued by the EPA on December 2, 2023, can be found at <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-operations/epas-final-rule-oil-and-natural-gas>. As mentioned previously, page references are made to the page number in the page finder toolbar (EPA, 2023, pp. 617-618)."

compliance, small businesses like Miller will struggle to navigate the auditing process. Gathering data beyond engineering estimates (a current allowable process) is also a very costly endeavor. This financial burden is placed on both GHGRP producers and those that are exempt.

We would urge EPA to put safeguards in place for exempt producers to have lesser audit standards as neither GHGRP nor the IRA was intended to have an impact on smaller producers not previously subjected to the GHGRP.¹⁴

Checks and balances need to be in place to hold EPA accountable to the calculations that drive the IRA penalty and EPA should not be allowed to collect a penalty before all associated regulations are in place.

Source Performance Standards

For the balance of my testimony, I am going to attempt to outline the specific problems Miller will face on a daily basis trying to comply with OOOO(c) and OOOO(b).

OOOO(c)

While some provisions do allow accommodations for marginal wells and low emitters, not all aspects of the regulations were fully considered. For producers like Miller, there are two areas where the compliance costs and created environmental liabilities far outweigh the value of de minimis reductions to methane. Those two areas are fugitive-emissions monitoring and the elimination of venting.

Fugitive Emissions Monitoring

The OOOO(c) model rule requires producers to monitor fugitive emissions and repair leaks within the described timeframe.¹⁵ This is good in concept, but the structure of the rule illustrates how disconnected the regulation is from both its objective, which is reducing methane, and from the cost-benefit analysis that was used to create it.

¹⁴ Manchin, J. (2023, June 6). MERP Letter to EPA. Retrieved from https://www.manchin.senate.gov/imo/media/doc/merp_letter_to_epa.pdf?cb.

¹⁵ The Final Rule and Regulatory Text issued by the EPA on December 2, 2023, can be found at <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-operations/epas-final-rule-oil-and-natural-gas>. As mentioned previously, page references are made to the page number in the page finder toolbar (EPA, 2023, pp. 681-684)."

At Miller, every wellsite has an assigned employee that physically monitors production and processing equipment daily. Similar to EPA's monitoring requirement for Single-Wellhead & Small Well Sites, Miller's employee performs audio, visual, and olfactory ("AVO") assessments when onsite to ensure proper operation and minimal environmental impact. Additionally, with low-volume, marginal-well production, we use motorized pumping units to help bring our oil to the surface. The vast majority of our pumping-unit motors are fueled by gas, meaning we are already incentivized to capture the associated gas from oil production and recycle it as fuel to operate our equipment. Between the regular monitoring, the low-volume of associated gas, and a marginal well producer's existing incentives to capture-fugitive emissions for fuel; EPA's regulation is not necessary as applied to marginal wells and marginal wells should be exempt from this regulation.

While it is my position, that marginal wells should be exempt, if marginal wells remain subject to OOOO(c) regulations, EPA needs to modify how most marginal-well facilities are categorized to appropriately align with the monitoring requirements.

EPA created four categories to regulate the various oil-and-gas locations, with each category having different monitoring and repair programs. EPA's current categories include: (1) Single-Wellhead & Small Well Sites, (2) Multi-Wellhead Sites, (3) Wellsites & Centralized Production Facilities, and (4) Compressor Stations.¹⁶ Locations are placed into their assigned category based on the facility's wellhead and equipment count, instead of the facility's throughput and potential emissions. EPA defined a Small Wellsite as one wellhead and one piece of processing equipment¹⁷. This ***mis-categorizes most marginal wells*** into the Wellsites & Centralized Production Facilities category because typical oil production (regardless of the volume) has a minimum of two to three pieces of processing equipment.

This categorization method creates a disparate impact on low-emission wells. If the objective is to address fugitive emissions, then the categorization should match the potential emissions and marginal wells should be treated as a Small Well Site.

Out of Miller's 262 facilities, only 31 are anticipated to fall into the Single-Wellhead or Small-Well-Site category. (These facilities produced on average .39 BOPD in 2023.) This leaves 231 facilities that fall into Wellsites & Centralized Production Facilities. These 231 Wellsites are being treated like Super Emitters, but had an average production of only 2.7 BOPD in 2023. I do not believe EPA's intention of categorizing facilities by equipment count properly obtained the objective. The

¹⁶ ID.

¹⁷ 40 CFR 60.5430b and 40 CFR 60.5430c

Small Wellsite category should have also considered the potential environmental impact by looking at the facilities throughput or emission potential.

Category	OOOO(c) as written (Based on equipment count)			OOOO(c) if applying Marginal Well Status (based on throughput)		
	Wellsite & Facility Count	Annual Surveying Cost	Total	Wellsite & Facility Count	Annual Surveying Cost	Total
Single-Wellhead & Small Well Sites	31	\$660.00	\$20,460.00	262	\$660.00	\$172,920.00
Multi-Wellhead sites	0	\$0.00	\$0.00	0	\$0.00	\$0.00
Wellsites & Centralized Production Facilities	231	\$8,990.00	\$2,076,690.00	0	\$0.00	\$0.00
Compressor Stations	1	\$9,980.00	\$9,980.00	1	\$9,980.00	\$9,980.00
			\$2,107,130.00			\$182,900.00
Mis-Categorization Difference						(\$1,924,230.00)

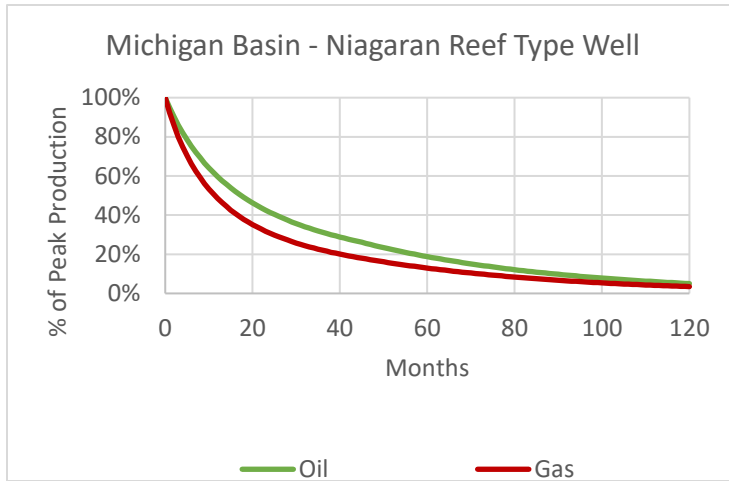
Simply put, Miller’s facilities do not have the potential to be large emitters. We believe that EPA intended to lighten the devastating burden on marginal-well producers, but it missed the mark. With 231 marginal-well facilities being miscategorized, Miller faces an annual cost of \$2.1M for surveying and reporting work alone.¹⁸ This cost does not account for the other expenses associated with program management and expedited repairs. While EPA did provide some leniency to perform a cheaper surveying alternative (Method 21), this is not a practical alternative with the height and setup of our processing equipment.

Fugitive-monitoring categories should be connected to emissions and not equipment count. Based on a marginal well’s low-production volumes producing low-emission concerns, an alternative facility category is needed. EPA allows AVOs alone as an adequate tool to ensure compliance at Small Wellsites¹⁹ – sites that have the potential to create a larger threat of emissions than marginal wells if they have a greater throughput. At a minimum, the same monitoring program applied to Small Wellsites should be applied to marginal wells.

¹⁸ The Final Rule and Regulatory Text issued by the EPA on December 2, 2023, can be found at <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-operations/epas-final-rule-oil-and-natural-gas>. As mentioned previously, page references are made to the page number in the page finder toolbar (EPA, 2023, pp. 812)."

¹⁹ ID at pp. 681-682.

Elimination of Flaring & Venting



As crude-oil wells in Michigan’s basin age, the associated gas production reduces significantly.²⁰ The average vintage of Miller’s wells is 64 years old. Due to the age and reservoir pressure of our mature wells, Miller often faces more challenges related to producing enough associated gas than producing excess gas. Our production schedules are often limited by the availability of

associated gas that can be recycled to power the field equipment and requiring us to purchase natural gas to run the equipment.

The OOOO(c) model rule is structured to eliminate flaring and venting of associated gas by alternatively routing the gas to a sales line, field fuel, other useful purpose, or injection.²¹ However, the model rule provides an exception for wells when a sales line and alternatives are not technically feasible.²² At that time, the use of flaring and other controlled devices becomes acceptable if it can achieve a 95% reduction in methane emissions.²³

Miller currently utilizes various techniques for managing associated gas. A sales-line infrastructure is not available for Miller’s flared and vented facilities due to the combination of marginal-production volumes and the availability of commercial purchasers. Miller does utilize most associated gas as field fuel and for other useful

Associated Gas Use	Details
Sales Line	<ul style="list-style-type: none"> 1 of 53 fields sold commercially Averaged 4.2 MCF per well, per day in 2023
Field Fuel	<ul style="list-style-type: none"> Field equipment powered in appx. 75% of fields
Other Useful Purpose	<ul style="list-style-type: none"> 10+ buildings heated
Continuous Flaring	<ul style="list-style-type: none"> 2 air-permitted facilities Averaged 1.9 MCF per well, per day in 2023
Intermittent Flaring	<ul style="list-style-type: none"> Appx. 25% of our facilities

²⁰ Source of data for Michigan Basin-Niagaran Reef Type Well graph showing decline curve of oil-and-gas production came from S&P Global Database.

²¹ The Final Rule and Regulatory Text issued by the EPA on December 2, 2023, can be found at <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-operations/epas-final-rule-oil-and-natural-gas>. As mentioned previously, page references are made to the page number in the page finder toolbar (EPA, 2023, pp. 1333)."

²² ID.

²³ ID.

purposes. For the majority of our facilities, what gas remains is de minimis and vented. While the model rule creates two categories for wells (greater than and less than 40TPY Methane) for determining the requirement to annually demonstrate and document the need to flare.²⁴ However, the model rule does not consider marginal wells like Miller's that cannot support or justify a flare. A few specific concerns include, (1) many marginal wells do not produce enough gas to support a continuous flare; therefore, these facilities would require the purchase and regular emissions of burning propane to maintain a pilot thus creating additional CO2 emissions, (2) excess associated gas is not consistent due to only 37% of our oil-and-gas wells produce continuously, (3) certain counties and cities have no-burn ordinances, (4) land and legal issues would arise with lack of appropriate surface space to construct a flare within state regulations, and (5) EPA's cost-benefit analysis was based on reducing significant methane not the de minimis quantities remaining from marginal wells.

At a minimum, we estimate we would need approximately 150 new flares to support our current 262 facilities. We anticipate an initial infrastructure investment to cost approximately \$6.0 million (\$40,000 per flare) and we are unable at this time to determine consistent and applicable annual operating expense for the illustrated 150 new flares. As a comparison, if we followed the cost structure identified by the EPA in the final rule, there is an anticipated annual cost of \$36,044 to install and operate a flare (after the amortization period of ten years, the annual remaining cost is \$25,000 per flare).²⁵ Using that model, Miller's capital investment is anticipated to be about \$5.5M annually for the initial ten-year period, then reduce to \$3.75 million in annual operating expense thereafter. Miller believes the EPA's cost estimate to be inflated for the type of flares required for our wells.

EPA should allow venting from low-emission wells where there is little, if any, potential methane reduction and control-device costs would immediately make production uneconomic.

Alignment: Regulations that Fit the Potential Risk

Marginal wells are defined in the federal tax code as wells producing 25 barrels of oil equivalent per day or less²⁶. One barrel of oil has a gas equivalent of 6 mcf. Miller's oil and gas wells produce on average 1.43 barrels/day, with our largest gas producing wells averaging only 9.79 mcf. Miller's wells are notably below the marginal-well threshold and are not comparable with the high-

²⁴ ID.

²⁵ ID at pp. 466.

²⁶ Internal Revenue Code § 451(c)(3)(A)(i)(I)

emission levels associated with super emitters. This is a prime example of why a one-size fits all approach to regulating the oil industry does not work.

OOOO(c) created a marginal-well exemption for emissions from storage tanks that accurately removed unnecessary regulations to wells that will not have an impact on methane reduction.²⁷ EPA recognized that storage tanks emitting less than 14TPY of methane and 4TPY of VOCs do not justify the requirement or feasibility to flare or run associated gas to a sales line.²⁸ However, the same logic is not applied across the regulation. While Miller is permitted to vent the associated gas that separates from a storage tank without a control device (flare), Miller must still maintain fugitive-emission monitoring and repair requirements on that very same tank. This effectively requires cost to be expended on one portion of the tank with zero impact to methane emissions. EPA recognized that the de minimis level of fugitive emissions from the tanks did not warrant control devices; therefore, monitoring and repairing existing components with similar emissions should have similar treatment.

Uncontrolled TPY	No Control Device	Largest Facility	Avg GHG Facility
Total HAPs	-	0.474	0.036
Total HC	-	15.92	1.041
VOCs, C2+	-	14.257	0.929
VOCs, C3+ (VOC)	Less than 4	12.738	0.847
CO2	-	1.028	0.064
CH4 (Methane)	Less than 14	1.663	0.112

The graph to the left illustrates the maximum Methane and VOC emissions anticipated from the storage tanks at Miller's largest and average facility. The calculated emissions for Miller's average facility are 0.112 tons of methane in 2022, a mere 0.8% of the

lowest storage-vessel category (0.112 of 14TPY methane²⁹).

OOOO(b)

At Miller we are always looking for opportunities to innovate, invest, and improve our assets. Including, finding opportunities to add new wells within our footprint when geology, engineering, and economics allow us to do so. OOOO(b) creates a significant roadblock to any oil-and-gas growth.

²⁷ The Final Rule and Regulatory Text issued by the EPA on December 2, 2023, can be found at <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-operations/epas-final-rule-oil-and-natural-gas>. As mentioned previously, page references are made to the page number in the page finder toolbar (EPA, 2023, pp. 1357)."

²⁸ ID.

OOOO(b) provides standards of performance for crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after December 6, 2022.³⁰ Essentially focusing on “New Sources” of fugitive emissions and treatment of association gas. OOOO(b) is regulated by EPA.

Drilling New Wells

Without the ability to flare or vent associated gas³¹, OOOO(b) will practically end all oil exploration in Michigan. The lack of proximity and infrastructure to viable gas-sales options for new drilling sites is a high hurdle for development. Michigan oil wells do not produce enough associated gas to support the economics to add miles of sales lines, treatment equipment, and third-party connection fees to service a newly drilled well in the state. Wells under OOOO(b) must be able to, at a minimum, flare associated gas.

Existing-Well Modifications

While Miller’s business model primarily deals with mature wells, Miller is concerned that improvements to existing marginal wells and their facilities could transfer those wells and facilities out of OOOO(c)’s existing source requirements into OOOO(b)’s new source requirements. OOOO(b) lacks any recognition for marginal-well production and creates punitive disincentive for investment into low-emission wells. Often investments in existing marginal wells, that would be defined as a modification under OOOO(b), would still result in production volumes within the marginal-well category. Improvement and innovation is a foundational building block of America. Improvements to existing infrastructure help reduce environmental risk. Increased innovation promotes the reduction of unnecessary waste and plugging wells before the end of their life.

Regulating Body

Dual regulators will also cause confusion when determining the reporting entity for facilities that may have a mixture or both existing and new sources.

To avoid the confusion and duplication of efforts and to maintain applicable threshold-based regulation for marginal wells, I believe it would make sense that all existing equipment would remain in the existing source category and be managed under OOOO(c) regulations.

³⁰ ID at pp. 8.

³¹ ID at pp. 46.

Rules like OOOO(b) stifle all economic benefits of investing in Michigan oil-and-gas exploration and production and eliminate an economic incentive to continue to develop energy and empower people.

Conclusion

For producers like Miller to continue to provide the lifeblood of our society, the implementation of these EPA rules must be delayed until the rules can be fully completed and the path to compliance made clear. Additionally, OOOO(c) performance standards to measure fugitive gas must be reworked to more appropriately align the potential gain to the cost of compliance. Lastly, OOOO(b) compliance standards must be adjusted to allow flaring of associated gas.

The best way to manage and reduce methane emissions in wells, like Miller's, is to allow states to closely and accurately work with businesses to continue to invest in and produce wells to their natural economic life, not simply end production and put us out of business through one-size-fits-all regulation.

Chairman Johnson, Ranking Member Tonko and distinguished members of the committee thank you once again for the opportunity to share about my business. This concludes my prepared comments, I welcome your questions.

Summary: Drew Martin, Written Testimony

“Protecting Clean American Energy Production and Jobs by Stopping EPA’s Overreach”

January 10, 2024

- Miller Energy is a Michigan based oil producer, founded in 2017, by Drew Martin and Luke Miller. The company has experienced success and growth since inception.
 - Zero production to now producing 670 barrels per day from 468 wells.
 - Started with 5 and now have 56 employees and operating in 15 counties.
- Do these rules even reduce methane emissions from low volume oil wells like Miller’s?
 - This rule will make Miller and many other operators in Michigan spend themselves out of business.
- Miller is requesting a stay on the IRA’s Methane Tax until both the Greenhouse Gas Reporting Program’s Subpart W and Standards of Performance for New Stationary Sources Subpart OOOO(c) regulations have been fully implemented and the compliance exemption is clearly attainable through finalized state and tribal regulations.
- One-size-fits-all regulation structure cannot accurately apply to vastly different types of production. Geographic, geologic, volume, and well specifics vary too much.
 - EPA has not appropriately captured low volume production like Miller’s.
- **Methane Tax Concerns:**
 - Timing problems – the OOOO(c) performance standards will not be clearly defined and implanted for up to 60 months, but tax (penalty) will be due in 2025.
 - The only thing clear about the Methane tax is the 25,000 metric tons of CO2 threshold.
 - EPA can alter tax liability through formula changes incorporated in Subpart W, without going through the formal-tax-legislative process.
- **OOOO(C) Standards of existing sources, Compliance:** At a minimum, EPA must restructure the facility categories for fugitive emissions reporting:
 - Miller would have \$2.1 million in added compliance cost for surveying alone.
 - Miller would have an estimate of \$6 million in capital investment requirements.
 - These represent a greater than 70% increase in annual operating expenses.
- **OOOO(b) Standards of Performance of new sources:**
 - Duplicative oversight – need to keep modified equipment under OOOO(c).
 - New wells must be able to flare associated gas.
 - For Michigan businesses, OOOO(b) effectively ends any new well drilling.
 - Disincentives investment into mature wells and facilities.