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Independent Regulatory Review Commission

27 July 2020

Department of Environmental Protection
Bureau of Air Quality
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101

Re: Proposed Rulemaking: Control of VOC Emissions from Oil and Natural Gas Sources

To Whom It May Concern:

CNX Resources Corporation (CNX) and its subsidiaries appreciate the opportunity to comment on the subject proposed rulemaking related to control of VOC emissions from oil and natural gas sources. As an independent natural gas exploration and production company that does business in Pennsylvania, CNX is a stakeholder in the outcome of proposed rulemaking #7-544.

CNX understands that this rulemaking is a response to the Control Technique Guidelines (CTG's) issued by the Environmental Protection Agency on October 27, 2016. However, PADEP is exceeding the scope of the CTG's by drafting regulations that more closely align with permit requirements using Best Available Technology (BAT) determinations rather than the Reasonably Available Control Requirement (RACT) determinations required by this type of rulemaking. In addition, it is the opinion of CNX that existing source regulations should not be more stringent than those for new and modified sources due to the difficulty and cost-prohibitive nature of implementing control requirements designed for newer sources on existing equipment.

Voluntary efforts by the natural gas industry and increased utilization of natural gas has contributed to improved air quality in Pennsylvania over the last few decades. Total VOC emissions decreased by 56% between 1990 and 2017. Total NOx and SOx reductions during this timeframe were 84% and 92%, respectively. In the power generation sector, where natural gas use has increased significantly, NOx and SOx reductions between 2005 and 2017 amount to 80% and 93% respectively. VOC emissions from the sector declined by 33% during this timeframe. In addition, production-based methane emissions intensity, expressed as metric ton CO2 equivalent/barrel of oil equivalent, declined in the Appalachian region between 2011 and 2017 by 82%. Furthermore, CO2 emissions from Pennsylvania's power sector decreased by 35% between 2010 and 2017 as a result of increased use of natural gas.

CNX has reviewed the proposed rulemaking and supports the technical comments submitted by the Marcellus Shale Coalition. In addition to these technical comments, CNX offers the following additional comments for consideration by the Department.

<u>General Comments:</u>

- The Department recently published a draft technical guidance document that aims to clarify the exemption status of a variety of potentially affected sources in this proposed rule. CNX requests that any decisions related to the applicability of this proposed rulemaking be postponed until there has been adequate opportunity to review the guidance. Facilities that

are determined to be exempt upon clarification in the guidance should similarly be exempted from requirements under this rule.

- CNX believes that the proposed rulemaking creates an unnecessary and inconsequential burden on our industry. Unconventional oil and gas assets are already subject to federal compliance programs such as OOOO and OOOOa, as well as additionally stringent state level permitting requirements that include the GP5 and GP5a. Operators are additionally responsible for regularly demonstrating compliance with exemption criteria, which essentially creates compliance obligations and actions associated with maintaining the exemption status. Each of these existing rules provides layered protection from air quality impacts associated with oil and natural gas operations, limiting the need or benefit of the proposed rulemaking.
- The requirements outlined in section 129.127 relating to fugitive emissions, and the subsequent proposed Leak Detection and Repair (LDAR) and Audio, Visual, and Olfactory (AVO) obligations are duplicative or conflict with existing federal or state programs. The industry has widely stated that it has a mutual interest to identify and promptly repair leaking infrastructure to minimize production losses. Further, CNX is subject to extensive LDAR and AVO inspections through existing Federal OOOO, OOOOa regulations as well as the Pennsylvania GP5/GP5a programs. These existing rules provide adequate coverage and inspection frequencies to reasonably identify and eliminate leaks.

<u>Specific Comments:</u>

Section §129.123. Storage Vessels

- §129.123 (a)(2)(i) CNX recommends removal of specific language included in this section, which relates to calculation of potential VOC emissions from storage vessels. The rule proposes using the "maximum average daily throughput prior to the effective date of this rule" as the only acceptable method for determining potential VOC emissions. CNX requests this be revised to allow all generally accepted models or calculation methodologies. The use of historical maximum averages that are no longer representative of the facilities throughputs will not provide an accurate emissions profile to justify the proposed compliance requirements.
    - *The potential VOC emissions in paragraph (1) must be calculated using a generally accepted model or calculation methodology.~~, based on the maximum average daily throughput prior to the effective date of this rulemaking, when published as a final-form rulemaking.) for an existing storage vessel.~~*

- §129.123(a)(2)(ii)
    - CNX requests the Department provide a list of operating permits or plan approvals currently determined to meet the requirements for consideration of a legally and practically enforceable limit. CNX believes that state level permitting programs such as the GP5, GP5a, and existing Exemption 38 programs should be considered satisfactory for this requirement.

Section §129.124. Natural Gas Driven Pneumatic Controllers and Pumps

- §129.124(2)(d) Compliance Demonstration Requirements

- CNX does not recognize any environmental benefit associated with tagging each affected natural gas-driven pneumatic controller. Tagging this equipment will provide no benefit beyond potentially creating an inventory of these devices, something that operators have a variety of methods to accomplish. Further, CNX requests that additional clarity be included to state that natural gas-driven pneumatic controllers that do not meet the bleed rate described in 129.124(c)(1) are exempt from these requirements. The addition should be made to 129.124(b) where exemptions are described.

Section §129.127. Fugitive Emissions Components:

- §129.127 Fugitive emissions components
  - CNX believes that many of the requirements outlined in this section are duplicative to existing federal or state requirements, and therefore create an unnecessary burden without environmental benefit. Aging conventional oil and gas assets are unlikely to rise to the 15 barrels of oil equivalent per day threshold, meaning that well sites subject to this rule would likely be linked to unconventional well sites. Producing unconventional wells sites are already subject to fugitive monitoring requirements under federal and state programs, rendering additional AVO and LDAR requirements as overly burdensome.
- Section 129.127(a)(1)(ii)(A)
  - This section of the rule requires operators to conduct an AVO inspection at all affected facilities within 30 days of the effective date of the rulemaking. This is not an adequate amount of time for operators to properly evaluate whether their assets are applicable to this rulemaking, as well as mobilize the necessary resources to perform these inspections. CNX requests that this timeframe be extended to a least 120 days.

Section §129.130 Recordkeeping and Reporting

- Section 129.130(g)(1)(ii) – The requirement that the annual analysis documenting a GOR of less than 300 standard cubic feet of gas per stock barrel of oil produced, conducted using generally accepted methods be signed by and include a certification by the responsible official is redundant. The proposed rule requires that the analysis is completed using generally accepted methods, therefore there is no additional benefit to having the responsible official sign this analysis.

CNX welcomes the opportunity to discuss this proposed rulemaking or these comments with the Department. Please feel free to contact me directly with any questions or clarification requests.

Regards,

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CNX Resources Corporation