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California Independent Petroleum Association Comments
on the January 20, 2023 – Oil and Gas Methane Regulation Workshop

Ms. Carolyn Lozo
Branch Chief
California Air Resources Board

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Via electronic submittal to CARB docket.

Thank you for the opportunity to share comments and key concerns related to the proposed amendments to the California Oil and Gas Methane Regulation. We appreciate the workshop and lead time for posting the relevant materials, and submit these comments on behalf of the members of the California Independent Petroleum Association (CIPA)[1]. CIPA is a non-profit, non-partisan trade association that represents nearly 300 crude oil and natural gas producers, royalty owners, and service and supply companies who all operate in California under the toughest regulations on the planet.

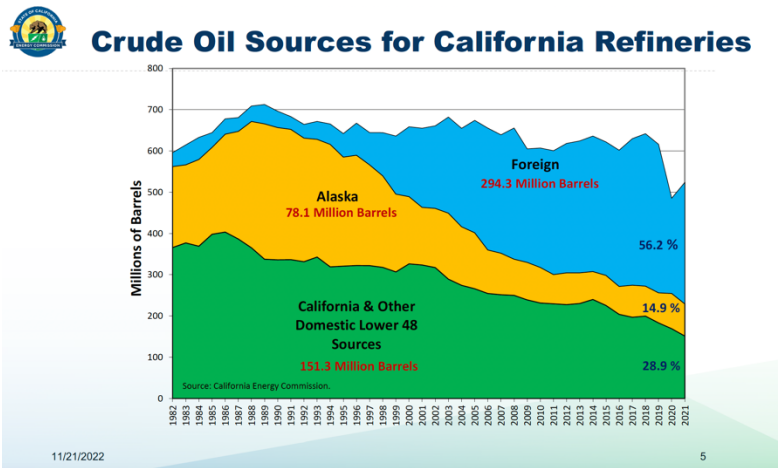
The January 20th workshop focused on several distinct aspects of the proposed amendments:[2]

1) U.S. EPA required changes needed for federal CTG consistency and approval;
2) Staff and stakeholder requested changes and clarifications;
3) Potential new provisions related to remote sensing; and
4) Future regulatory proposals, removal of Heavy Oil LDAR Exemption.

CIPA's detailed comments below mainly focus on the last three discretionary aspects of the staff proposal. We would like to initially state appreciation for staff's willingness to hear stakeholder concerns related to current implementation and drafting of the regulation. It is CIPA's hope that when these changes become effective, that many of the lingering questions and issues being addressed on a regular basis by our members will be solved.

We remain strongly opposed to any amendments in which in-state crude, produced under the strictest environmental standards in the world, is replaced with imported crude either by direct regulation or indirect impact. A true and successful methane reduction program would not shift emissions, tax-base and jobs to other jurisdictions. The CEC staff recently presented the slide below at meeting on gasoline prices[3] showing just such a shift.

[1] The mission of CIPA is to promote greater understanding and awareness of the unique nature of California's oil and natural gas resources, and the independent producers who contribute actively to California's economy, employment and environmental protection.
[2] https://ww2.arb.ca.gov/our-work/programs/oil-and-natural-gas-production-processing-and-storage/workshops-meetings
[3] https://www.energy.ca.gov/event/workshop/2022-11/commissioner-hearing-california-gasoline-price-spikes-refinery-operations?utm_medium=email&utm_source=govdelivery



Regulatory Uncertainty

First an initial note regarding the number of moving regulatory pieces that are all in motion right now. Having this regulation up for amendments (and another rulemaking to follow) while the U.S. EPA is working on finalizing a newer version of their CTG guidelines, at the same time as local district methane rules are being amended makes compliance more complex and difficult. CIPA has concerns that by listing specific versions of local rules, at the request of U.S. EPA, while they are set to be amended, only leads to an endless chasing of our 'regulatory tails', and will lead to continuous/sequential rulemaking for years to come. It also leads to addition compliance questions we highlight in the next section.

CIPA would be interested in sitting down with CARB, the local districts and U.S. EPA in an effort to see if there is a better way to consistently regulate the sector.

The CARB Oil/Gas Methane Regulations, as an adopted regulation sets the state standards and limits to be followed the regulated entities. This comprehensive set of rules needs to be the statewide agency standard as well. CIPA strongly requests that within the regulation, Initial Statement of Reason, Final Statement of Reason, or adopting resolution CARB states such a fact. Other state agencies should not be allowed to implement other GHG methane leak detection and emission standards.

Staff and stakeholder requested changes and clarifications

The following issues were flagged by the technical review of CIPA members for updating from the released version of the rule[4].

Page 10, (62) Definition of Separator: States "In natural gas production a separator may be referred to as a heater/separator". This is incorrect since it applies to an oil/gas/water separator. A gas separator would include a "chiller"/separator" but not a "heater/separator"

Page 11, (65) Definition of "Sump": Under local regulations, sumps as currently defined are no longer in use. Furthermore, an impoundment containing produced water is defined as a "pond". This can be clarified by adding: "A pond containing produced water is not considered a sump".

Page 18, (b)(2) Circulation Tanks for Well Stimulation Treatments: The definition of well stimulation treatments is evolving as it is changed by CalGEM under their existing and proposed regulations to include

[4] https://ww2.arb.ca.gov/sites/default/files/2023-01/DRAFT_OG%20Reg%20Order_Proposed_1-13-23.pdf

all acid stimulation treatments, including near wellbore (as opposed to fracking). Thus, the requirements of this section of the methane regulations have become more onerous without any additional action being taken by CARB. This should be changed to add: "Well stimulation treatments do not apply to near-wellbore treatments, but only to fracking as defined in SB-4".

Page 42, (d)(1) Leak Detection and Repair Plan: This section would require a written plan specific to each facility that encompasses all components, including the listing of components to be monitored. The existing regulations already provide clear guidance of what needs to be done and with what frequency; these have been carried out successfully for five years without such specificity. Listing "components" is akin to requiring individual component identification and numbering; there is no doubt that this is what would be required as it is currently proposed. This would add greatly to the time and cost of carrying out the plan to what is already a very costly and time-consuming program, *without* a demonstrated benefit to justify the additional cost.

Delay of Repairs: Add that delays can be caused by the time to file for and get permits from County agencies and state agencies (such as CalGEM and the Water Board).

LDAR Concerns/Suggestions

- 95669 LDAR (c)(1)(b) – the exemptions reference a specific APCD rule.
    - Any rule change by the APCD will remove this exemption. The APCD is not changing their LDAR rule until *after* this rule is approved, which means that the LDAR exemptions will no longer apply and facilities will then be subject to both the APCD and COGR regulations.
        - For example, the rule currently references SJVAPCD Rule 4401 (amended June 16, 2011). After COGR is approved, the APCD will revise (the rule is currently being looked at) Rule 4401 and change the 'amended date'. Once the rule is amended, the COGR exemption will no longer apply and the facility will be subject to both the new 4401 rule and the COGR regulation.
- 95669 LDAR (c)(1)(b) – the exemptions reference a specific APCD rule.
    - Facilities are subject to APCD LDAR requirements in the permits, for example, Rules 2201 and 2280 in the SJVAPCD. The COGR rule only states that the exemption applies to Rules 4401/4409/4623, so facilities will be subject to both the COGR rule due to no exemption and to the APCD rule.

The fix for the bullets directly above is to is to revert back to the previous language, which states 'exempt if subject to current APCD LDAR regulation'—see endless regulatory loop comment above.

- LDAR Section 95669(f)(2), it's been common for the SJVAPCD to accept an operator's SOP that audio-visual inspections occur daily instead of burdensome inspection records. CIPA requests that be an option in lieu of hundreds of inspection points (daily) on an inspection sheet.

- LDAR Section 95669(i), CIPA recommends including language that allows a tag to also be affixed "near" the leaking component. As currently written, it is too restrictive, especially if the leak has a rotating component.

- LDAR Section 95669(o)(1)(a) and Table 2, could use some additional clarification that the number of allowable leaks is cumulative for all equipment/components during the inspection and not a reference to the components per piece of equipment inspected.

Potential new provisions related to remote sensing

CIPA understands that there is new remote sensing capacity available to the State, but is firmly opposed to amendments which subject oil/gas operators to targeting from industry opponents. The loosely drafted text in Section 95669.1 does not rise to the standard of an enforceable

regulation[5]. We believe that if such language were adopted, it would be easily abused by stakeholders seeking to shut down our industry in the state.

The staff proposal lacks some of the basic compliance risk protections and clarity needed for this concept to be enforceable and actionable by CARB. The following is an initial list of CIPA concerns:

- There is no requirement that the "remote monitoring technology" is affiliated with CARB, the local air district, or other state agencies. The language allows third-party stakeholders to initiate an enforceable action against a regulated party. CIPA is opposed to this open framework.
- There is no requirement that the "remote monitoring technology" initiating action by CIPA members is held to a set accuracy standard or has been obtained from a calibrated or well-maintained instrument. This is a basic standard for regulatory requirements.
    - Use of "remote monitoring technology" must include use and reference to measurements of sources with known concentrations over the fly area – at least on a representative number of scans, e.g., 1 in every 5 or 10 scans. For example, a flux chamber on the ground could be used which contains a calibration gas of 50 ppmv methane. A fly over must include this.
    - All equipment should be calibrated, for example, to NIST and/or ASTM standards with specificity to the level of accuracy. Most of these should be referred to a screening tool. At a minimum, they should be calibrated to NIST standards on an annual basis. If deemed as 'self-calibrating', they must include the use of at least two known and quantifiable sources of methane, e.g., flux chambers.
- Use of "remote monitoring technology" needs to be better defined. CIPA suggests that there be a listing of proven technologies along with equipment that is accepted by the agency AND operators. containing 500 and 5000 ppmv methane calibration gas. The reason for this is that there is currently and typically no QA/QC conducted by agencies for this.
- The use of a satellite or a plane are technically not "remote monitoring technologies", but rather examples of vehicles that that have the ability to fly over the area that hold the remote sensing device. CIPA recommends a more accurate description/definition for this.
- There is no requirement that the "remote monitoring technology" be operated by certified or trained operators.
- There is no protection for a regulated party that if an 'emission source' is determined to be a legally allowable activity, that the operator won't be repeatedly required to inspect it.
- There is no requirement for CARB to do any diligence on the data, the equipment, or submitting party prior to sending a notice to an operator.
- Subparagraph (a) expands the scope of this regulation from methane to also include "hydrocarbon" emissions. Such an expansion should not occur without considerable analysis of its impacts and costs.
- The start date most likely precedes the effective date of any amended rule.
- The responsive times should be modified from calendar to *business* days.

[5] https://ww2.arb.ca.gov/sites/default/files/2023-01/DRAFT_OG%20Reg%20Order_Proposed_1-13-23.pdf

- The language requiring an inspection of the "facility" is inconsistent, as the intent seems to be a target inspection within a '100-meter radii.
- There is no requirement for CARB to ensure equitable treatment under the regulation.
- A notification to a single email is not sufficient to initiate any regulatory action. It should not be used as the sole means of notification, especially when corrective action is required. Contacts who leave a company are not there to receive the notification. If mailing a notice by the U.S. Postal Service is not used (heretofore recognized as a means of formal notification), a positive confirmation of receipt should be required to confirm the notification has been made. This could consist of a telephone call or a confirmation of e-mail receipt.
- The notice to operators under subparagraph (b) should also include:
    - The source of the data (individual or entity)
    - The type of equipment used to obtain the data
    - The location of the data collection device (ground, plane, satellite)
- The requirement to describe "why" allowable venting is occurring is an unnecessary time and cost requirement, and it should be removed.
- It is unclear what the enforcement risk is associated with this section. Can daily violations accrue indefinitely, for example? Does this fall under reporting or emissions violation?
- The workshop did not discuss costs to operators or cost-effectiveness of these provisions.
- Notification by e-mail is not sufficient. While e-mail is convenient

Given the myriad of issues to still be worked through, the timing of the adoption schedule, and that another rulemaking is already planned, CIPA recommends a more thoughtful process be initiated prior to inclusion of remote sensing requirements in the rule. Absent that, CIPA would need to see a significant set of amendments workshopped and a cost-effective analysis completed prior to inclusion.

Future regulatory proposals, including Removal of Heavy Oil LDAR Exemption

CIPA appreciates the acknowledgement that potentially removing the heavy oil LDAR requirement needs addition analysis and discussion. This issue is not a minor one for California operators and will carry significant costs without corresponding emission reductions.

Conclusion

The adopted 2022 Update to the AB 32 Scoping Plan acknowledges that California will need petroleum and natural gas fuels for many years, and that when in-state production is reduced faster than the demand reduction, GHG leakage occurs[6]. During this time, California should prioritize in-state supply. Any regulatory proposals that run counter to the ultimate goal of reducing GHG emissions worldwide should be discarded.

[6] https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp.pdf [pages 100-106]

The last barrel of oil used in this state, should be produced in state. Thank you for continuing the dialogue with us. We look forward to working with CARB on this important topic.

Sincerely,

Rock Zierman
Chief Executive Officer
California Independent Petroleum Association