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Subject:	[EXT] IPANM Comments - Methane
Date:	Wednesday, September 16, 2020 4:32:35 PM
Attachments:	IPANM COMMENTS ON DRAFT NMOCD METHANE RULE - 2020-09-16.pdf

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Dep. Dir. Polak & Sec. Cottrell Propst,

Attached are IPANM's feedback and comments on the first draft of the proposed OCD Methane Rule.
Thank you for your engagement and feel free to reach out with any questions or concerns.

Regards,

--jim

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September 16, 2020

Tiffany Polak
Deputy Director, Oil Conservation Division
Energy, Minerals & Natural Resources Department
State of New Mexico

Secretary Sarah Cottrell Propst
Energy, Minerals & Natural Resources Department
State of New Mexico

RE: Independent Petroleum Association of New Mexico (IPANM) Comments on Draft Methane Rules

Dear Deputy Director Polak and Secretary Cottrell Propst,

On behalf of the 350+ members comprised of independent oil & gas producers and associated industry members, I'd like to respectfully submit these comments to the proposed draft Venting and Flaring Rules released to the public on July 20, 2020. It is our intention to offer practical suggestions for essential changes that will benefit both your staff of regulators and our members. These comments are meant to be purely technical, as well as provide critical context related to the well economics faced by our independent operators. As we have demonstrated throughout our year+ involvement in the Methane Advisory Panel (MAP), these comments are in no way political in nature and represent factual feasibility issues related to your future implementation of both rules.

The comments in this letter have been divided into several sections to clearly identify the specific sections of the Energy, Minerals and Natural Resources Department's (EMNRD) Draft draft Venting and Flaring Rules. The following page begins with a Table of Contents to quickly allow your staff to review comments by drafted sections.

We hope you carefully consider our technical requests included in this letter. Members of IPANM have spent considerable time both working with the administration throughout the MAP process, reviewing these draft rules, and assembling these comments. Needless to say, this kind of effort illustrates how certain regulatory changes with new Methane rule could impact independent producers in terms of cost, resources, and the ability to operate in New Mexico.

Thank you for your consideration.

Highest Regards,

Jim Winchester, IPANM

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COMMENTS ON THE DRAFT OCD METHANE (Waste Prevention) RULE:

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 27 VENTING AND FLARING OF NATURAL GAS

General Comments on the Rule Development Process:

IPANM is very appreciative of the Methane Advisory Panel (MAP) technical stakeholder engagement process that took place in the fall of 2019. We were very supportive of the process and provided several technical representatives to provide input from the upstream and midstream sectors of the oil and gas industry in New Mexico. The oil and gas industry plays a significant role in the state's economy and budget. IPANM believes it is prudent to develop the appropriate regulations with a balanced approach so as not to overburden a vital industry for the state with excessive or unnecessary requirements.

The following comments will reference the specific numeric rule reference number, followed by IPANM's comments and analysis. In some cases, our commentary may include figures or direct citations with inserted sections from the original draft rule.

19.15.27.7 DEFINITIONS

19.15.27.7 D defines Completion operations as follows:

19.15.27.7 DEFINITIONS: Definitions shall have the meaning specified in 19.15.2 NMAC except as specified below.

D. "Completion operations" means the period that begins with the initial perforation of the well in the completed interval and concludes on the earlier of 30 days after commencement of initial flowback or when permanent production equipment is in use at the well.

IPANM finds that the draft language assumes 30-days as the approximate interval from initial perforation to commencement of initial flowback. IPANM members, especially those in the San Juan Basin, report that certain wells may not reach production operations within this 30-day timeframe due to gas quality issues, resulting from inert content which would not meet pipeline specifications.

During IPANM's conference call with OCD staff on August 3, 2020, IPANM suggested a 60-day timeframe.

19.15.27.7 F defines Emergency as follows:

F. "Emergency" means a temporary, infrequent and unavoidable event in which the loss of natural gas is uncontrollable or necessary to avoid a risk of an immediate and substantial

adverse impact on safety, public health or the environment, but does not include an event arising from or related to:

(1) the operator's failure to install appropriate equipment of sufficient capacity to accommodate the anticipated or actual rate and pressure of production;

(2) the operator's failure to limit production when the production rate exceeds the capacity of the related equipment or natural gas gathering system as defined in 19.15.28 NMAC, or exceeds the sales contract volume of natural gas;

(3) scheduled maintenance;

(4) the operator's negligence, including a recurring equipment failure; or

(5) two or more emergencies experienced by the operator within the preceding 60 days, unless the division determines the operator could not have reasonably anticipated the current event and it was beyond the operator's control.

The language in 19.15.27.7 F(5) is circular in the fact that an emergency is an unavoidable event. We believe this section intends to exclude the unexpected repeat release on a given piece of equipment in a specific timeframe. It is more appropriate to have this tied back to the equipment malfunction or failure. IPANM also recommends making the number of occurrences three or more. One instance is not indicative of a reocurring issue.

19.15.27.7 N defines Production Operations as follows:

N. **"Production operations"** means the period that begins on the earlier of 31 days following the commencement of initial flowback or when permanent production equipment is in use at a well and concludes when the well is plugged and abandoned.

IPANM recommends removing the timeframe from the definition of production operations. "*The production operations*" is the phase of operation that directly follows the completion operations, which is the point in which permanent production equipment is in use at the well. If the "completion operations" has a defined timeframe, it is unnecessary to have a timeframe for the commencement of the production operations.

19.15.27.7 O defines Production Operations as follows:

O. **"Separation flowback"** means the period during completion operations that begins when it is technically feasible for a separator to function and concludes on the earlier of 30 days after initial flowback begins or when permanent production equipment is in use at the well or production facility.

As stated above regarding production operations, IPANM is requesting a 60-day timeframe after the commencement of the initial flowback for completion operations, which includes the separation flowback. The separation flowback begins when it is technically feasible for a separator to function and concludes within the 60-day timeframe for completion operations, or at the point in which the production operations begin. It again is unnecessary to have a timeframe in the definition of separation flowback. In addition, as mentioned in Section 19.15.27.7 with completion operations, 30 days is insufficient time when dealing with the quality of flowback gas resulting from inert content.

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19.15.27.8 VENTING AND FLARING OF NATURAL GAS

19.15.27.8 B outlines NMED's proposed standards for venting and flaring during drilling operations:

B. Venting and flaring during drilling operations.

(1) The operator shall capture or combust natural gas escaping from the well using best available control technologies.

(2) A flare stack shall be located at a minimum of 100 feet from the nearest surface hole location and shall be enclosed and equipped with an automatic ignition system or continuous pilot.

(3) In an emergency or malfunction, the operator may vent natural gas to avoid a risk of an immediate and substantial adverse impact on safety, public health or the environment. The operator shall

(a) notify the division of the venting or flaring as soon as possible by email, but no more than two hours following discovery of the emergency or malfunction;

(b) file a form C-129 no later than 24 hours after commencing to vent or flare pursuant to Subparagraph (4) of Subsection E of 19.15.27.8 NMAC;

(c) notify the division as soon as practicable after it stops venting or flaring; and

(d) comply with the applicable requirement to report a release pursuant to 19.15.29 NMAC.

IPANM recommends the inclusion of a technical infeasibility exemption. In many cases, it may be impossible to capture all of the gas during drilling operations. The drilling circulation systems are not a closed system due to the fact that fluid gains and losses can occur unexpectedly. If a lost of circulation event occurs, there would be the potential to introduce air into a closed system which, if natural gas has accumulated in the system, would pose a serious safety concern.

19.15.27.8 B (2)

It is overly prescriptive and outside of the intent of preventing waste to require an enclosed flare with an automatic ignitor, with a minimum placement distance of 100 feet. IPANM recommends removing 19.15.27.8 B (2) from the draft rule.

19.15.27.8 B (3)

IPANM supports the emergency or malfunction exemption but has concerns with the duplicative reporting requirements. Operators are already required to report major releases within 24 hours via the C-141 form and within 15 days for minor releases per 19.15.29 NMAC.

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19.15.27.8 C Venting and flaring during completion operations:

19.15.27.8 VENTING AND FLARING OF NATURAL GAS:

C. Venting and flaring during completion operations.

(1) During initial flowback, the operator shall route flowback fluids into a completion or storage tank and commence operation of a separator as soon as it is technically feasible for a separator to function.

(2) During separation flowback, the operator shall capture and route recovered natural gas to a gas flowline or collection system, re-inject it into the well or it use on-site as a fuel source or for another purpose that a purchased fuel or raw material would serve.

(3) The operator may route recovered natural gas to a flare if routing or using the natural gas as described in Subparagraph (2) of Paragraph C of 19.15.27.8 NMAC poses a risk to safe operation or personnel safety, provided that the flare is equipped with an automatic igniter or continuous pilot.

(4) The operator may vent natural gas only if capturing or flaring the natural gas poses a risk to safe operations or personnel safety, and venting is safer than capturing and flaring.

IPANM believes that existing federal NSPS subpart OOOOa requirements adequately address the completion activities in the state and see 19.15.27.8 as duplicative. If the agency chooses to keep the proposed regulations, IPANM has the following concerns and suggestions:

IPANM repeats its concerns related to the gas quality of the resource. Exceptions need to be included to address this issue and need to be inserted into 19.15.27.8. IPANM suggests adding a gas quality exemption that would allow the operator to flare gas in the event that the gas does not meet pipeline specifications due to inert content. Below is an example of recommended:

(2) During separation flowback, the operator shall capture and route recovered natural gas to a gas flowline or collection system, re-inject it into the well, or use it on-site as a fuel source, or for another purpose that a purchased fuel or raw material would serve.

(3) The operator may route recovered natural gas to a flare if routing or using the natural gas as described in Subparagraph (2) of Paragraph C of 19.15.27.8 NMAC poses a risk to safe operation or personnel safety, provided that the flare is equipped with an automatic igniter or continuous pilot.

(4) The operator may route recovered natural gas to a flare if routing or using the natural gas as described in Subparagraph (2) of Paragraph C of 19.15.27.8 NMAC is not possible due to out of pipeline specification gas (N2, O2, H2S), provided that the flare is equipped with an automatic igniter or continuous pilot.

~~(4)~~(5) The operator may vent natural gas only if capturing or flaring the natural gas poses a risk to safe operations or personnel safety, and venting is safer than capturing and flaring.

IPANM would also also like to note that in some cases where nitrogen is used during hydraulic fracturing operations, there is a period of time when the flowback gas is not combustible. Consideration needs to be given for this situation in terms of a technical feasibility exemption. During the call with OCD staff on August 3rdst, a request was made to provide thresholds when gas could be considered marketable. One San Juan Basin operator performing nitrogen foam fracs reports that two thresholds

are critical; O2 (oxygen) and N2 (nitrogen) content. From a safety perspective, the content of O2 during flowback must be <10 ppm. From an operational standpoint, the nitrogen must be < 10% volume otherwise it cannot be used on-site as a fuel source pursuant to C.(2) of this section.

19.15.27.8 D: Venting and flaring during production operations:

19.15.27.8 D (2)(a)

IPANM recommends revising the vent or flare authorization by permit to include authorizations established under federal, state, or tribal authority.

19.15.27.8 D (2)(c)(i)

Once again IPANM stongly urges the need for consideration of gas quality. In the event that the gas does not meet pipeline specifications due to inert content (N2, O2, CO2), the need to vent or flare is necessary. IPANM believes adding achieving saleable gas quality as a criterian to 19.15.27.8 D(2)(c)(i) is essential.

19.15.27.8 D (2)(c)(ii)

IPANM recommends revising the requirement of the "*operator remains present on-site*" to the "operator remains in close proximity." This aligns with NMED rule provisions.

19.15.27.8 D (4)

In this section, the administrative burden in terms of reporting in this section is substantial and it is difficult to see the benefit in terms of reduction of waste. IPANM again comments on the redundancy of reporting requirements. Operators are already required to report major releases within 24 hours via the C141 form and within 15 days for minor releases per 19.15.29 NMAC.

19.15.27.8 D (5)

(5) Performance standards for separation, storage tank and flare equipment.

(a) The operator shall design a temporary or permanent separation or storage tank to minimize the natural gas flashing and vapor accumulation.

(b) The operator shall equip a permanent storage tank associated with production operations that is installed after {effective date of rule} with an automatic gauging system to reduce the venting of natural gas.

(c) The operator shall combust all natural gas in a flare stack designed for and operated at maximum efficiency.

(i) A flare stack installed after May 31, 2021 shall be equipped with an automatic ignitor or continuous pilot.

(ii) A flare stack before June 1, 2021 shall be retrofitted with an automatic ignitor or continuous pilot no later than 18 months after {effective date of rule}.

(iii) A flare stack located at a well with an average daily production of equal to or less than 10 barrels of oil or 60,000 cubic feet of natural gas shall be retrofitted with an automatic ignitor or continuous pilot if the flare stack is replaced after {effective date of the rule}.

(d) A flare stack located at a well spud after {effective date of rule} shall be adequately anchored and located at least 100 feet from the well and storage tanks.

(e) The operator shall inspect a flare stack at least once per week to confirm that it is being properly maintained and operated in conformance with its design, and shall make and keep a record of each inspection for not less than five years and make such records available for inspection by the division upon request.

19.15.27.8 D (5)(a)

IPANM believes this section is ambiguous, as it offers no specificity on what compliance expectations are for the operator. It is unclear whether the operator needs to provide an emission calculation or process design to prevent flashing. IPANM recommends that this section be removed from the proposed rule.

19.15.27.8 D (5)(b)

This provision of an automatic gauging system is concerning for multiple reasons.

1. We are held to conflicting standards on BLM leases.
2. Our current crude hauler/purchaser may require manual gauging per contractual obligation.

19.15.27.8 E (1) Measurements and reporting of vented and flared natural gas:

E. Measurement and reporting of vented and flared natural gas.

(1) The operator shall measure the volume of natural gas that is vented, flared or beneficially used during drilling, completion and production operations regardless of the reason or authorization for such venting and flaring.

(a) The operator shall install equipment to measure the volume of vented and flared natural gas from a well authorized by an APD issued after May 31, 2021 that has an average daily production greater than 10 barrels of oil or 60,000 cubic feet of natural gas.

There are inherent challenges with the measurement of vented and flared volumes. The challenges include, but are not limited to, the accuracy of measurement of low-flow or low-pressure streams, the potential of increased backpressure on the system, and safety concerns related to obstructed flow. While some of these challenges can be addressed by using non-traditional differential pressure measurement technology, there are still challenges surrounding the range of flow that can exist. In addition to the technical feasibility issue, the cost to install measurement can be prohibitively expensive. IPANM recommends that the agency consider measurement of vented or flared volumes where it can be technically and accurately performed. In many cases, a calculated volume could be more accurate than a measured volume. For these reasons, IPANM recommends adding a provision for the use of estimation or calculation of the volume when it is technically infeasible to measure. This provision can be found in the proposed rule at 19.15.28.22 C (5).

(5) For an event for which metering is not practicable the operator may estimate the volume of vented and flared natural gas.

19.15.27.8 E (2) & (3): Monthly reporting of lost natural gas

Another issue of serious concern is the requirement to report lost natural gas denoted in 19.15.27.8 (E) (2) & (3):

(2) The operator shall report the lost natural gas for each month on a volumetric and percentage basis on form C-115B.

IPANM supports the concept of creating consistency in terms of reported vented and flared volumes on the C-115. The following list highlights some of the problems with C-115B requirements related to lost natural gas reporting:

- There is no effective date tied to advanced reporting. Operators will need time to implement.
- Accounting production software from operators would not be able to generate these new reports in the short-term.
    - When IPANM highlighted these concerns during our August 3, 2020 conference call, OCD staff suggested we propose a phased-in reporting time. Due to the time needed to research, program, and integrate these calculations into the different and existing software utilized by operators, we conservatively estimate it would take at least 18 months to implement these changes.
- Many of the production accounting software packages utilized by operators are incapable of handling the large number of categories detailed in 19.15.27.8 E (3).

Capturing this level of detail in the monthly production reporting process is an extreme administrative burden to the operator with no value in terms of preventing waste. For this reason, IPANM recommends condensing this detailed reporting requirement from the monthly production reporting process proposed in the draft rules or moving to an annual reporting process. IPANM recommends further engagement with industry to develop appropriate guidance to ensure the volumes of vented and flared gas is consistent across the state.

19.15.27.8 E(4): Reporting vented and flared events in excess of 8 hrs

This provision is duplicative to the reporting that is already required under 19.15.29. Operators are currently required to file a C-141 for a minor release (> 50Mcf but < 500 Mcf) within 15 days and within 24 hrs on a major release (> 500 Mcf). Duplicative reporting adds an unnecessary burden to both the operator and the agency.

19.15.27.8 E(5): Reporting vented and flared volumes to royalty owners

(5) The operator shall report the vented and flared natural gas on a volumetric and percentage basis to all royalty owners in the mineral estate being produced by the well on a monthly basis, and keep such reports for not less than five years and make such records available for inspection by the division upon request.

The requirement to report to all royalty owners is unnecessary. Operators currently report monthly production volumes via the state C-115 report and the Federal OGOR. The data from these monthly production reports include the volume of vented and flared gas and are publicly available. A separate royalty owner-report would be redundant and overly burdensome. In addition, there are instances of undivided federal units where all the mineral/royalty owners participate proportionately in production

from the unit. In those cases, there could be instances of as many as 900 individual royalty owners having to be notified.

19.15.27.9 STATEWIDE NATURAL GAS CAPTURE REQUIREMENTS

19.15.27.9 D: Natural gas management plan

As previously stated, IPANM supports the gas capture requirements proposed in the rule. This sets the standard and allows the operator to choose the best solution to achieve the standard. The natural gas management plan is a significant administrative burden with little or no value if the operator is meeting the gas capture requirements. IPANM has concerns about the information that is required by the Natural Gas Management Plan in terms of the difficulty in obtaining the information that is confidential. IPANM member companies in both the upstream and midstream sectors are concerned about providing information that could be considered confidential business information becoming public.

Detemining the takeaway capacity in a given area during the phases of development is complex. In many cases, APDs are obtained well in advance of development to ensure an operator has drilling inventory prior to contracting drilling services. The information provided on the natural gas management plan will be a snapshot in time and may or may not reflect actual situation at the time of drilling. Compliance with the gas capture requirements is the primary goal, but securing adequate takeaway capacity should be left to the operator. IPANM recommends that the natural gas management plan be utilized or required only when an operator is not in compliance with the gas capture requirements. It is unnecessary and overly burdensome to require an operator compliant with gas capture requirements to provide all of the information required in the natural gas management plan. IPANM offers the following comments on the natural gas management plan for the use as a method of compliance:

19.15.27.9 D(2)

(d) **Anticipated three-year natural gas production volume:** production profile is confidential company information

(e) **Contacted or anticipated gathering system information:**

(v)-(viii): Confidential information. ***Certification in 19.15.27.9 D(4)(c)(i)***

(ix): reliability: What's acceptable? How would this be determined for a new system?

(f) **Detailed map:** How would this information be used? It does not provide any value for determining capacity and would be considered confidential information. There are concerns about this information with associated rates and pressures becoming public information.

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19.15.27.9 D(4)

(b) **Operator provides development information to each gathering system in the area:** This will be problematic if the operator has an acreage dedication. IPANM would recommend removing this statement for certification.

(c)(ii) **Sufficient capacity for the productive life of the well:** It is impossible to certify capacity for the productive life of the well.

19.15.27.9 D(5)

(i) Remove 19.15.27.9 D(4)(b)

(ii) Remove 19.15.27.9 D(4)(c)(ii)

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COMMENTS ON THE DRAFT OCD VENTING AND FLARING (Waste Prevention) RULE:

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 28 NATURAL GAS GATHERING SYSTEMS

IPANM views the provisions in 19.15.28.8 NMAC through 19.15.28.21 NMAC as pipeline safety regulations. Pipeline safety is regulated through the Pipeline Safety Bureau under the New Mexico Public Regulation Commission. IPANM believes these sections under Part 28 should be removed, as the design, construction, inspection, integrity monitoring, and maintenance of gathering pipelines falls outside the regulatory authority of the agency. There are many requirements outlined in 19.15.28.8 NMAC through 19.15.28.21 NMAC exceed U.S. Department of Transportation (DOT) Pipeline and Hazardous Material Safety Administration (PHMSA) and NMPRC regulations, and would impose unnecessary burden on gas gathering operators in New Mexico.

The comments below illustrate the concerns with the entire proposed rule with the understanding that IPANM believes 19.15.28.8 NMAC through 19.15.28.21 should be deleted.

19.15.28.7 DEFINITIONS

19.15.28.7 G: Gathering pipeline

There is a reference to custody transfer in the definition of gathering pipelines but it is not defined.

19.15.28.22 VENTING AND FLARING OF NATURAL GAS FROM NATURAL GAS GATHERING SYSTEMS

19.15.28.22 B(1) Authorized by permit

IPANM recommends revising the vent or flare authorization by permit to include authorizations established under federal, state, local, or tribal authority.

19.15.28.22 C(6)

The intent of this section can be met more practically for both the company and OCD by requiring an annual summary report rather than a monthly exercise of the same. A monthly frequency introduces unnecessary inefficiencies which are a diminishing return in that OCD would not have the resources nor need to review monthly submittals and make regulatory adjustments accordingly. It is more practical to require an annual summary.

19.15.28.22 C(7)

Again, an annual summary is best to meet the intent of OCD without being unnecessarily punitive in the 'busy work' monthly requirement.

The intent is supported. The aspirational aspects of this section are understood. However, the prescriptive nature of fifteen (15) variations of categories will do nothing but create frustration for OCD and those trying to meet the ambiguous expectations. It is recommended to provide the expectation to track volume of vented and flared gas that come from any identified sources. At a minimum, remove language that directs companies to double-report which is found in (m). This goes against OCD and NMED stated expectations in the MAP and public meetings.

Necessary categories:

- Beneficial use
- Necessary high-pressure flaring & venting
- Unnecessary high-pressure flaring & venting

19.15.28.22 C(8)

The requirement of submitting a C-129 is redundant , considering the current requirements in Part 29 to file a C-141.

19.15.28.23 STATEWIDE NATURAL GAS CAPTURE REQUIREMENTS

19.15.28.23 D Natural gas management plan

This section begins in a reasonable manner – a communication from the operator to OCD that there is a natural gas management plan in place to ensure effective capture. Section 1 and 2 are acceptable in themselves. IPANM recommends removal from section 2 and the sub-sections a, b, c and d. These are non-value added prescriptive attempts to obtain data. More importantly, OCD does not need to know the level of non-methane capture related detail required in sub-sections b, c and d. OCD can hold a company accountable to their plan, as written, if there was a failure in the plan.

OVERARCHING REPORTING TIMELINE CONCERNS

For both Part 27 and Part 28, IPANM's overarching concerns are with notification timelines. Throughout both, there are references to 2-hour notifications. This is a challenge due to various reasons:

- Consider the current reporting structure in most operations. For example, a lease operator finds the situation, then reports it to a field foreman, then the foreman reports it to a centralized operator office, and then the operator notifies OCD of the situation.
- IPANM operators and field staff frequently have poor service (or no service) reception for cellphones or internet service in the remote producing basins. It is not practical to require a 2-hour notification deadline when poor reception limits the ability of field workers to report back issues up the chain-of-command to the operator.
- Emergency situations require the first call to go to emergency responders, as well as attend to the immediate needs of the safety of personnel in the field. Exceptions or extensions to notification timelines need to allow consideration to primary responsibilities such as these in the event of an emergency.

For these reasons, IPANM recommends extending the notification deadline from 2 hours to 24 hours.

19.15.7.24 Operator's Monthly Report (C-115)

With the date listed on C-115 due 30 days after production, operators rarely will get their production data back from contracted pipeline midstream operators until about 25 days after production. As it stands now, operators are already hard-pressed to obtain data and calculations done within 45 days. IPANM requests reporting C-115's to be due 60 days after production.

SUMMARY

IPANM wishes to commend the agency on a very productive enagagement with stakeholders through the process of developing a stragety to reduce methane emissions and waste. We hope to conitune to provide feedback after the close of this informal comment period. We feel stongly that the further dialogue with industry will help ensure that the agency develops rules that secure the necessary reductions while balancing the overall impacts to operators in the state.