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# EPA, Pa. DEP Take Aim at Oil and Gas Industry Methane Emissions

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The Environmental Protection Agency (EPA) and the Pennsylvania Department of Environmental Protection (DEP) have introduced new programs and regulations intended to reduce methane emissions from operations within the oil and gas industry. This article outlines those initiatives and provides some brief perspective and a note about what to expect in the future.

## EPA Initiatives

The EPA initiatives include: revised new source performance standards (NSPS); new control technique guidelines (CTG); and the publication of a draft information collection request (ICR).

The NSPS were first adopted in 1985 to address volatile organic compound (VOC) and sulfur dioxide emissions from natural gas processing plants. The EPA is required to review and revise the standards every eight years. The last NSPS revision took place in 2012. The 2012 NSPS revisions were largely intended to reduce emissions from equipment leaks at natural gas processing plants, and also established new VOC standards for certain oil and natural gas operations. However, the 2012 NSPS did not cover hydraulically fractured oil wells and certain other equipment in the oil and gas industry that is regulated under the new 2016 NSPS. The 2016 NSPS regulations will become effective Aug. 2.

The 2016 NSPS' primary goal is to limit methane emissions by limiting emissions from oil and gas operations including: crude petroleum and natural gas extraction, natural liquid gas extraction, natural gas distribution, and the pipeline distribution of crude oil and natural gas. The NSPS encourages the use of best system of emissions reduction (BSER) equipment and processes intended to limit emissions.

The EPA's desire to eliminate leaks throughout the natural gas production process is evident from the NSPS. The NSPS natural gas regulations are focused on limiting emissions from natural gas well sites, production and gathering boosting stations, processing plants, and compressor stations. Once the NSPS becomes effective, owners and operators of natural gas well sites, production and gathering boosting stations, and compressor stations will be required to utilize optical gas imaging (OGI) to detect leaks twice per year. Owners and operators may also utilize "Method 21," a portable VOC monitoring technology, or some other alternative leak-monitoring technology, if the owner/operator can demonstrate that the alternative technology can achieve emission reductions equivalent to OGI or Method 21. Any leaks detected must be repaired within 30 days, unless the repair would require stopping production. In that case, a leak would need to be repaired within two years or the next time the site stops production, whichever is sooner. The NSPS also specify that

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ities will need to utilize new pumps and diaphragms that will further decrease emissions from the production process.

The 2016 NSPS also specifies that leak surveys must be performed twice a year at hydraulically fractured oil wells. The general requirements mirror the requirements promulgated for the natural gas industry—owners/operators must use OGI or Method 21, or an alternative technology if the owner/operator can establish it is as effective as the former options. Furthermore, any leaks found at hydraulically fractured oil wells must be repaired within the same timeframes established for the natural gas industry.

Another significant element of the NSPS aimed at oil operations is the attempted elimination of most emissions from hydraulically fractured oil wells during "flowback," which is when materials used to hydraulically fracture a well literally flow back toward the surface. Under the 2016 NSPS, flowback emissions must be reduced by 95 percent.

EPA has estimated that the total annualized engineering costs of implementing the 2016 NSPS will be \$390 million in 2020, climbing to \$640 million in 2025. However, the EPA estimates that this will be set off, in part, by an additional \$70 million of revenue through 2020 and \$110 million in additional revenue through 2025 resulting from the capture and repurposing of previously wasted natural gas that is currently allowed to escape during the production processes.

In addition to the NSPS, EPA has released, but not finalized, its CTGs for reducing VOC emissions. The CTGs are guidance documents, that when finalized, will trigger a requirement for certain states to develop rules utilizing reasonably available control technology (RACT) to control emissions. The CTGs will be applicable in ozone nonattainment areas throughout the region and in the Ozone Transport Region, which is currently comprised of 11 states including New Jersey, New York, Delaware, and Pennsylvania, the District of Columbia, and Northern Virginia. The CTGs contain, among other things, RACT control options for emission sources that will be regulated under the NSPS.

The EPA's release of a draft ICR presents the possibility that the agency may undertake further efforts to reduce emissions in the oil and gas industry from existing sources in the not-so-distant future. The draft ICR was issued in May 2016. When finalized, oil and natural gas companies will be required to provide operational information, which the EPA will then use to craft additional regulations aimed at reducing methane emissions. The EPA is seeking information such as the best configuration for installing equipment and emissions controls, the associated costs of making system upgrades, and the installation requirements for the oil and gas industry. The EPA is accepting comments on the draft ICR through Aug. 2, and a final ICR may be released by the fall of 2016.

## Pennsylvania Initiatives

With respect to efforts by the commonwealth, Pennsylvania Gov. Tom Wolf stated he plans to "expeditiously" pursue new regulations for the oil and gas industry and the DEP has stated that it intends to not only adopt the EPA's NSPS and CTGs, but will also build upon these efforts through a four-point approach, discussed below. Notably, while the NSPS only regulates new and modified sources of emissions, the DEP has stated that it intends to regulate emissions from existing sources as well.

The DEP's four-point approach will further reduce emissions from both existing sources and new and modified sources. First, the DEP plans to develop a new general permit for new unconventional (i.e., hydraulically fractured) well pad operations. The DEP has stated that the new permit will contain "best available technology" requirements, and is intended to be the "leading regulation" in the country for controlling emissions. The DEP has also stated it will revise its current GP-5 general permit to import the requirements of the NSPS.

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The EPA, has also stated it will impose new requirements for leak detection and repair. The DEP does not currently require methane monitoring or have leak-detection requirements. The DEP plans to establish best-management processes for detecting and repairing leaks along natural gas production, gathering, transmission, and distribution lines.

Lastly, the DEP intends to develop regulations for regulating methane emissions from existing oil and gas industry sources of methane emissions. The DEP plans to introduce these regulations within the next two years.

## Conclusion

The combined effect of the EPA's and DEP's new regulations imposes significant new requirements on oil and gas operations, both within and outside of Pennsylvania. Furthermore, additional regulations to further eliminate methane emissions from oil and gas production and distribution processes are on the horizon. Based on statements from both the EPA and DEP, the oil and gas industry should prepare for, at a minimum, a finalized ICR, CTGs, and new DEP regulations within the next one to two years.

*Bio; Mark Lazaroff and George Bibikos are attorneys in Cozen O'Connor's environmental, energy and public utilities practice group. Cozen O'Connor's EEU practice group represents a broad range of clients in the energy sector, including oil and gas companies, interstate pipeline companies, midstream companies, and public utilities. The EEU group regularly practices before state and federal environmental regulatory agencies such as the DEP and EPA, state and federal courts, FERC, and various state public utility commissions.*

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