



Regulatory Update

EPA's Methane Rule

The EPA released the final version of the agency's methane rule on December 2, 2023, during the UN Climate Conference (COP28). The final rule is meant to reduce emissions of methane and other pollutants from the oil and gas industry and establishes both federal and state standards. The rulemaking applies to new and existing oil and gas facilities involved in **production and processing**, including equipment and processes at well sites, storage tank batteries, gathering and boosting compressor stations, and natural gas processing plants.

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Subpart 0000b of the rule covers New Source Performance Standards (NSPS) and is meant to reduce methane and VOC emissions from new, modified, or reconstructed sources built after December 6, 2022. Under subpart 0000b, a two-year phase-in period is required for eliminating routine flaring of associated gas for new oil wells. In situations without an available sales line, associated gas would need to be used on-site as a fuel source, used for another purpose that a purchased fuel or raw material would service, or be routed to a flare or other control device achieving 95% reduction of emissions. In addition, the rule allows for a one-year phase-in period for zero emissions standards for pneumatic controllers/pumps. While reporting begins in 2024, operators will be required to report data from 2022 and going forward.

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Under Subpart 0000c, existing sources defined as those constructed prior to December 6, 2022, will be regulated by the states using emission guidelines set by the rule. States will be required to design and execute plans to meet EPA requirements or adopt the federal plan. States will have 24 months to submit their plans to the EPA for approval and establish compliance deadlines for existing facilities that are as much as 36 months after the deadline for submission of state plans. This would effectively give operators with existing sources up to five years after publication of the final EPA rule to meet regulatory requirements. Federally recognized Tribes have the opportunity but are not obligated to develop their own plans that follow the requirements set for state plans. Tribes may use aspects of existing programs to meet plan requirements.

For preexisting wells with documented methane emissions of 40 tons per year or less, flaring is permitted provided that the gas is routed to a flare or control device that achieves 95% reduction in methane. For existing wells with documented methane emissions of 40 tons per year or more, flaring is prohibited unless the operator can show technical infeasibility of other accepted options. These alternatives can include routing the gas to a sales line, using it as an onsite fuel source or for another useful purpose, or injecting it back into the same well or another well. If all these options are infeasible, then the associated gas can be routed to a flare or other control device.

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Leak Detection and Repair (LDAR)

Operators must monitor for methane leaks and fix them promptly, and they are encouraged to use advanced detection technologies. The frequency of LDAR surveys depends on the type of facility and the method used for surveying. Increasingly, companies are forgoing handheld cameras in favor of advanced systems utilizing satellites, aerial surveys, and continuous monitors. The rule establishes a framework that allows for the use of new detection methods approved by EPA on an ongoing basis.

EPA's new rule restructures LDAR requirements based upon the type of facility involved in order to address methane and VOC leaks. In general, affected facilities are well sites, centralized production facilities, and compressor stations where components with the potential to emit fugitive emissions of methane or VOCs are present. The frequency and level of monitoring varies by site based on its configuration and the presence, if any, of production equipment. Single wellhead-only sites must conduct quarterly audio, visual, and olfactory (AVO) inspections, while multi-wellhead only sites must do semiannual OGI (optical gas imaging) inspections in addition to quarterly AVO. Well sites with major production and processing equipment must conduct AVO inspections every other month and quarterly OGI inspections. Compressor stations are required to conduct monthly AVO and quarterly OGI inspections.

Appendix K

The protocol known as Appendix K applies to the deployment of OGI technology to identify methane using a thermal infrared camera. The requirements apply to the performance of the cameras, operator training, the development of operating envelopes for surveys, monitoring plans, and recordkeeping. An operating envelope refers to the range of conditions within which a survey must be conducted to achieve the quality objective. More details on Appendix K are available at this link.

<https://www.epa.gov/system/files/documents/2022-11/Proposed%20Changes%20to%20Appendix%20K.%20Fact%20Sheet.pdf>

Super-Emitter Program

The rule allows for third parties to be certified by EPA to collect data using remote sensing technologies. These third parties are required to submit notifications of super emitter events to EPA within 15 calendar days of the observance. The agency would then verify the detection and notify the operator, who must initiate an investigation within five days and report the results of its investigation to EPA within 15 days of the notification. Super-Emitter events are defined as emission events resulting in 100 kilograms (220.5 pounds) per hour or more of methane. If the source falls under OOOOb or OOOOc rules, the operator must address the leak according to those requirements.

IRA Waste Emissions Fee

In August 2022, Congress passed the Inflation Reduction Act (IRA) creating a phase-in schedule for a "Waste Emissions Charge" (WEC) that begins in 2024. The IRA allows changes to the Clean Air Act in an effort to reduce emissions from the oil and gas industry through the creation of the Methane Emissions Reduction Program (MERP). This new fee will be levied on applicable facilities that report emissions to the Greenhouse Gas Reporting Program (GHGRP) and have methane emissions in excess of 25,000 metric tons of CO₂ equivalent per year. The fee begins at a rate of \$900 per metric ton for 2024, increasing to \$1200 in 2025, and it will remain at \$1500 from 2026 on. The first WEC will be due on March 31, 2025, for calendar year 2024. Importantly, this fee applies only to facilities that are out of compliance with EPA's methane emissions requirements and do not fall under another exemption.

Subpart W

The objective when EPA launched the Greenhouse Gas Reporting Program (GHGRP) in 2009 was to collect and publicly report greenhouse gas emissions data across certain industries. The specific mandate for the oil and gas sector (commonly known as Subpart W) covers facilities that emit 25,000 metric tons of CO₂ equivalent or more per year. Facilities and suppliers are required to report data directly to the EPA. Through the IRA, Congress expanded the GHGRP's mandate forcing EPA to propose revisions to its Subpart W emissions reporting program because of its use as the emissions data on which the methane fee will be based. Questions still exist surrounding how the tax will work, and the accuracy of the emissions tools that have historically been used for Subpart W.

Oil Storage vessel applicability threshold

Currently, Subpart OOOOa storage vessel regulations are limited to VOC emissions and based on a VOC potential to emit (PTE) of 6 tons per year (tpy) for a single storage vessel. Under Subpart OOOOb, EPA includes the 6 tpy VOC POE applicability threshold, adds a methane applicability threshold of 20 tpy and applies these thresholds to a single storage vessel or the aggregate potential emissions from a "tank battery," i.e., a group of storage vessels that are adjacent and receive fluids from the same operation or are manifolded together. As for storage vessels at existing facilities, under OOOOc EPA will regulate existing tank batteries meeting the 20 tpy methane threshold. For storage vessels meeting these threshold requirements, EPA requires a 95% reduction of VOC and methane by routing emissions through a closed vent system to a control device.

Marginal Wells

The Inflation Reduction Act is causing confusion. Under the law, companies are required to pay the WEC (Waste Emission Charge) on facilities that emit more than 25,000 metric tons of CO₂e per year. However, the federal greenhouse gas reporting rules on which the WEC is based require companies to count all wells within a given basin as a single facility. This change in interpretation could require many marginal well producers to pay the WEC. It is unclear if Congress meant to exempt marginal producers when they passed the Inflation Reduction Act.

As of 2/1/2024, the final methane rule has not been published in the Federal Register. More details on the rule are available at this link.

<https://www.epa.gov/system/files/documents/2023-12/summary-of-key-requirements-table.pdf>

Updated on 2.5.2024