

NTAA INFORMATIONAL WEBINAR: COMMENTS ON EPA PROPOSED AMENDMENTS TO METHANE EMISSIONS NSPS FOR OIL AND GAS SECTOR

OCTOBER 30, 2019



INFORMATIONAL WEBINAR AGENDA

- **Introductions and Welcome**
 - Andy Bessler, NTAA Project Director
- **Review of NTAA Policy Resource Kit**
 - Dara Marks-Marino, NTAA Research Specialist
- **Presentation of Proposed EPA Action and Summary of NTAA's Comments**
 - Pilar Thomas, NTAA Policy Advisory Committee
- **How to Comment on Proposed EPA Action**
 - Andy Bessler
- **Open Discussion**
 - Moderated by Andy Bessler

BACKGROUND FOR EPA ACTION

- EPA has regulated the oil and gas sector under Clean Air Act § 111 since 1979.
- In 1985, EPA promulgated NSPS for volatile organic compounds (VOCs) and sulfur dioxide emissions from natural gas processing plants.
- In 2012, EPA updated the standards, established VOC NSPS for oil and natural gas-related operations, expanded source category to include transmission, pipeline and storage in the “midstream” segment.
- EPA issued new NSPS in 2016 to reduce releases of methane from the oil and gas source category.
 - NSPS set requirements for methane emissions, further regulated VOCs, and included additional sources not covered in the 2012 NSPS.
 - It set cost-effective controls that reduce both methane and VOC emissions from equipment across the industry.

OIL AND GAS INDUSTRY EMISSIONS

- Oil and natural gas sector accounts for nearly 30% of U.S. methane emission
- Methane is 25 times more potent than CO₂ as a heat-trapping gas.
- 3465 oil and gas wells and over 16,000 miles of oil and natural gas pipelines located on Tribal lands.

EPA PROPOSALS

- Proposes to re-define source category to separate oil and natural gas production and processing from oil and natural gas transmission and storage
 - Claims its decision to regulate transmission and storage in 2012 and 2016 exceeded the agency's authority.
- Proposes to rescind the methane NSPS for the redefined oil and natural gas category
 - Claims that EPA lacked a rational basis to establish these standards in the first place because the methane NSPS are “wholly redundant” with the VOC NSPS and thus are unnecessary.
- As the Proposed Rule recognizes, this will prevent EPA from regulating methane emissions from existing sources, which would have been required under Section 111(d).

SUMMARY OF NTAA COMMENTS

- Amendments would cause negative impacts on air quality and public welfare in Indian Country because the rule, even by EPA's estimates, will result in increased methane, VOC, and hazardous air pollutant (HAP) emissions.
- The Proposed Rule's analysis of these impacts, both generally and in Indian Country is insufficient.
- The Proposed Rule will unreasonably exclude the majority of the oil and gas infrastructure – the transmission (pipelines) and storage facilities located in every state and on many Tribe's lands in the country.
- The Proposed Rule, under either approach, will unlawfully prevent the regulation of methane from existing sources.
- NTAA opposes both alternatives and recommends upholding and strengthening the 2016 NSPS standards.

PROPOSAL TO RESCIND METHANE NSPS

- Rescinding methane requirements based on the assertion they are redundant with VOC requirements is unlawful under Section 111 of the CAA.
 - Section 111 does not authorize EPA to rescind one pollutant's standards because another pollutant's standards may capture them.
- There is no additional burden to comply with the methane emission standards (the purported "redundancy" is non-existent).
- The EPA admits that if it does not have a new source standard for methane it will not have to develop an existing source standard and that existing sources will not be covered by VOC standards.

EPA RATIONALE IS UNSUPPORTED BY ANY ANALYSIS

- EPA claims that this lack of regulation will not result in a “substantial amount” of lost emission reductions because 1) EPA expects many existing sources will retire or undertake modifications and become subject to the VOC NSPS, 2) existing sources have market incentives to capture and sell methane, 3) voluntary programs to reduce methane emissions exist, to reduce methane emissions, and 4) many states have adopted requirements to capture methane.
- EPA does not explain what it considers substantial and does not quantitatively analyze the impacts of its expectations.
- Capturing methane does not always have economic value. which EPA recognizes, but does not analyze.
- The Proposed Rule does not even suggest that all existing sources will enter into voluntary programs to reduce methane emissions, or that the methane emissions achieved through these programs would be equal to the required regulation under Section 111(d).
- EPA does not analyze whether and to what extent states have requirements to capture methane. Nor does EPA analyze the impacts of the state regulations it mentions, which the states can revoke at any time.

PROPOSAL TO REDEFINE SOURCE CATEGORY

- The EPA proposes to rescind the previous determination that the midstream facilities – transmission and pipelines and corresponding pumps and storage – are part of the oil and natural gas source category.
 - No substantive difference between a pipeline that gathers oil and gas in a well site and transports that oil and gas to a storage tank at or near the well site and a pipeline that transports treated oil and gas to another storage tank or directly to a customer.
 - With tens of thousands, if not hundreds of thousands, of miles of pipelines crossing the country, to exclude this infrastructure is unreasonable.
 - The EPA admits that untreated oil (crude oil) and gas can be transported from the well sites to processing and treatment facilities far from those well sites.
- The oil and gas industry has changed its practices considerably from 1979, when the source category was originally established. It is not unreasonable for EPA to acknowledge these changes and to rationally and reasonably update the definition of the source category to reflect industry practices. The 2012 change was reasonable because it extended the source category to substantially similar, if not exactly the same, types of infrastructure. To revert to the original 1979 scope would itself be unreasonable.
- EPA's proposed view that it can only expand the source category if it conducts a separate determination for the midstream infrastructure only impermissibly delays regulating those aspects of the oil and gas industry that also undeniably contribute to methane gas emissions. The EPA properly exercised its discretion and authority to expand the definition of the source category, and further imposition of a separate determination is unnecessary.

IMPACTS ON AIR QUALITY AND CLIMATE CHANGE

- EPA's Regulatory Impact Analysis (RIA): Proposed amendments are expected to increase emissions by 380,000 tons of methane, 100,000 tons of VOC, and 3,800 tons of HAPs over a six-year period. EPA expects the additional HAPs and VOCs co-emitted along with methane will adversely impact air quality and health of many communities, particularly those nearby oil and gas facilities. EPA fails to provide estimates of costs related to the health impacts of increased emissions from the proposed rule.
- NTAA is concerned about HAPs, methane, and VOCs emitted throughout the oil and natural gas development cycle.
 - HAPs such as benzene, toluene, ethylbenzene, xylenes, and n-hexane are linked to numerous human health hazards including cancer and reproductive, developmental, and neurological damage.
 - VOCs contribute to smog formation, which can lead to childhood asthma attacks and even premature death.
 - Methane and VOCs are precursors to ground-level ozone, which contribute to several harmful health and environmental impacts

TRIBAL IMPACTS

- Tribal impacts were not considered in the proposed rule or regulatory impact analysis (violating EPA's Policy on Consultation and Coordination with Indian Tribes).
- Any Tribe that has new, modified, or existing oil or natural gas wells, pipelines, and storage facilities on or near Tribal land will suffer from increased methane, VOC, and HAP emissions.
- Tribal communities are disproportionately susceptible to health effects of air pollution and most vulnerable to climate change impacts.
- Studies show that Native Americans and Alaska Natives have a disproportionate incidence of asthma and are at risk from exposure to ozone. American Indian and Alaska Native children are 60 percent more likely to have asthma as non-Hispanic white children.

HOW TO COMMENT

- Comments are due on November 25, 2019.
- All comments should be identified with Docket ID No. EPA-HQ-OAR-2017-0757.
- Online: Go to <https://www.regulations.gov/> and follow the instructions for submitting comments to EPA-HQ-OAR-2017-0757.
- Email: Comments may be sent to a-and-r-Docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2017-0757 in the subject line of the message.
- Mail: Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, Attention Docket ID No. EPA-HQ-OAR-2017-0757, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- Fax: Fax your comments to: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2017-0757.

ANY QUESTIONS OR COMMENTS?

NTAA's Policy Resource Kit can be found here:

<https://www7.nau.edu/itep/main/ntaa/PolicyResponseKits/PolicyResponseKitsHome/>