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Pennsylvania oil and gas producers take note: Five Key changes in EPA's proposed methane rule

By Gary Steinbauer, Esq.

On November 2, the U.S. Environmental Protection Agency (EPA) released its highly anticipated proposal to expand existing and create new regulations related to greenhouse gas (in the form of methane) and volatile organic compound (VOC) emissions from the oil and gas sector. The proposed rule is entitled *Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review*. The proposal, if finalized, will lead to more stringent Clean Air Act (CAA) emission limitations and other work practice requirements related to emissions of methane and VOCs from new and existing sources within the crude oil and natural gas production sector, including producers in Pennsylvania.

Brief overview of the methane proposal

The methane proposal is comprised of three distinct actions proposed under sections 111(b) and (d) of the CAA: (1) proposed amendments to the existing methane and VOC requirements in Subpart OOOOa of the New Source Performance Standards (NSPS) in 40 CFR Part 60; (2) a proposed new NSPS to be included in new Subpart OOOOb, regulating emissions of methane and VOCs from new, modified and reconstructed sources within the oil and gas sector; and (3) nationwide methane emission guidelines (EGs) for existing sources within the oil and gas sector in new Subpart OOOOc.

EPA's proposed amendments to the current

requirements in Subpart OOOOa are primarily in response to Congress' June 2021 revocation of regulatory amendments made by the EPA during the Trump administration. The new proposed NSPS to be included in Subpart OOOOb would expand the existing requirements in Subpart OOOOa and regulate additional sources of methane and VOC emissions within the oil and gas sector, establishing the "best system of emission reduction" for affected sources that are new, modified, and reconstructed after the effective date. The proposed EGs in new Subpart OOOOc are a set of presumptive methane emission standards that would apply nationwide to various existing sources within the crude oil and natural gas sector. The proposed EGs in new Subpart OOOOc, if finalized, would *not* apply immediately to affected sources. Rather, the EGs are intended to guide states in the creation of their own plans to implement the EGs, which would be submitted to EPA for review and approval similar to the state implementation plan process created under section 110 of the CAA.

When it released the 577-page methane proposal, EPA did not provide proposed regulatory text for proposed new Subparts OOOOb and OOOOc. Rather, the methane proposal includes EPA's summary of and justification for the proposed regulations in these new subparts. EPA states that it will issue a supplemental proposal seeking "additional public input" when it releases the proposed regulatory text for Subparts OOOOb and OOOOc.

Key changes in EPA's methane proposal

The following five key changes in the methane proposal could significantly impact the majority of crude oil and natural gas producers in Pennsylvania.

- 1. Shift from production to overall site-level baseline methane emissions for determining LDAR applicability and monitoring frequency at well sites.** In a departure from the existing low-production well site exclusion from LDAR in Subpart OOOOa, 40 CFR § 60.5397a(1), EPA now proposes to abandon using production volume as a basis for excluding equipment at well sites from LDAR requirements. Instead, EPA proposes to require LDAR for equipment

at well sites based on total site-level baseline methane emissions. Well sites with total site-level baseline methane emissions less than 3 tons per year (tpy) would be excluded from LDAR monitoring requirements, provided that these well sites demonstrate that methane emissions do not exceed 3 tpy through an on-site specific survey. Well sites with total site-level baseline methane emissions exceeding 3 tpy would be required to perform quarterly LDAR monitoring, although EPA is co-proposing a semiannual LDAR monitoring frequency for well sites with total site-level baseline methane emissions between 3 and 8 tpy and quarterly LDAR monitoring for well sites with total site-level methane emissions above 8 tpy.

- 2. Significant expansion of storage vessel regulations.** As part of the methane proposal, EPA proposes to expand its regulation of oil and gas-related storage vessels under both Subparts OOOOb and OOOOc. Currently, Subpart OOOOa storage vessel regulations are limited to VOC emissions and based on a VOC potential to emit (PTE) of 6 tpy for a single storage vessel. Under Subpart OOOOb, EPA is proposing to include the same 6 tpy PTE applicability threshold, expand it to include methane, and apply it 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, EPA is proposing to regulate existing tank batteries with potential methane emissions of 20 tpy or more. Combined with EPA’s proposal to narrowly redefine instances where legally and practically enforceable limitations are in place to limit the PTE for a single or group of storage vessels below the 6 tpy applicability threshold, EPA’s proposal is likely to increase the number of regulated storage vessels and require that methane and VOC emissions from newly regulated storage vessels be reduced by 95 percent using a vapor recovery device or combustor.
- 3. First-time requirements for new and existing oil wells with associated gas.** For the first time, EPA proposes to require that associated gas from oil wells be routed immediately to a sales line. Currently, there are no NSPS requirements that apply to emissions from venting associated gas from oil wells. In situations where gas-producing oil wells do not have access to a 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 percent reduction of methane and VOC emissions. Under the methane proposal, any new or existing oil well producing associated gas would be regulated,

regardless of production volumes.

- 4. Zeroing out emissions from new and existing pneumatic controllers.** Currently, under Subpart OOOOa, affected pneumatic controllers located anywhere except for onshore natural gas processing plants are allowed to have a bleed rate of 6 standard cubic feet per hour. 40 CFR § 60.5390a(c). Furthermore, intermittent vent natural gas-driven pneumatic controllers are not regulated under Subpart OOOOa, regardless of their location. Under Subpart OOOOb, EPA proposes to regulate single natural gas-driven continuous and intermittent bleed pneumatic controllers regardless of location. All these affected pneumatic controllers would be required to meet a new zero emission rate for VOCs and methane. Lastly, EPA proposes to remove an exemption in Subpart OOOOa that applies to affected pneumatic controllers with a bleed rate greater than the applicable standard based on functional needs, including response time, safety and positive actuation, so long as such pneumatic controllers are tagged with the month and year of installation. *Id.* § 60.5390a(a).
- 5. Zeroing out or controlling emissions from liquids unloading.** Described as an “episodic high-emitting source,” EPA proposes to regulate methane and VOC emissions from liquids unloading. More specifically, each liquids unloading event at an existing affected well site would be considered a modification triggering the requirements in proposed Subpart OOOOb, eliminating the need to regulate liquids unloading at existing well sites under proposed Subpart OOOOc. EPA is proposing to require liquids unloading operations be performed with zero methane or VOC emissions. Where it is not safe to perform liquids unloading operations with zero emissions, EPA proposes to require best management practices to minimize methane and VOC emissions.

The methane proposal is expected to be published in the Federal Register on November 15, starting a 60-day public comment period. In addition to the five key changes noted above, EPA is specifically requesting comments on whether to add requirements related to: (1) abandoned and plugged wells, tank trunk loading operations and pipeline “pigging” operations; and (2) improving performance and minimizing malfunctions at flares.

Babst Calland is tracking the methane proposal closely, particularly as it affects Pennsylvania oil and natural gas producers. If you have any questions or would like additional information, please contact Gary Steinbauer at 412-394-6590 or gsteinbauer@babstcalland.com, Gina Falaschi at 202-853-3483 or gfalaschi@babstcalland.com, or Christina Puhnaty at 412-394-6514 or cpuhnaty@babstcalland.com.