



## White House Releases Climate Action Plan to Reduce Methane Emissions

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On March 28, 2014, the White House released the Administration's "comprehensive interagency strategy to cut methane emissions" (Methane Strategy). The [Methane Strategy](#) lists a number of new actions the Administration is taking or will take to reduce methane emissions, improve public health and safety, and provide more energy to the nation. The actions are likely to affect the oil and natural gas industries.

The Methane Strategy is only one part of President Obama's goal to reduce U.S. greenhouse gas (GHG) emissions by 17 percent below 2005 levels by 2020. According to the White House, the Methane Strategy could cut GHG emissions by up to 90 million metric tons in 2020. Generally, the Methane Strategy includes: (1) a summary of the sources of methane and trends in methane emissions; (2) plans to reduce methane emissions through incentive-based programs as well as the Administration's existing regulatory authorities; and (3) plans to improve the ways methane emissions are measured and monitored.

The Methane Strategy includes both regulatory actions and voluntary incentive programs that federal agencies will use to combat methane emissions. Of note, while the Methane Strategy does not mandate new regulations for methane emissions from the oil and natural gas sectors, it requires a process for considering such regulations, and provides that – if regulations are promulgated – they should be in place by the end of 2016. Additionally, the Methane Strategy outlines efforts that the Pipeline and Hazardous Materials Safety Administration (PHMSA) takes to monitor natural gas pipeline systems and to continue ensuring that leaks and accidental releases are minimized or eliminated.

Supporters of additional regulation of the oil and natural gas sector believe that new data has become available since the Environmental Protection Agency (EPA) issued its 2012 new source performance standards and national emission standards for hazardous air pollutants for the oil and natural gas sector. Historically, EPA has taken the position that methane does not need to be directly regulated; however, this new data as well as the Methane Strategy may signal a shift in EPA's position.

### Sources of Methane

The Methane Strategy focuses on man-made sources of methane and states that, while methane emissions in the U.S. have decreased by 11 percent since 1990, emissions are expected to significantly increase through 2030 unless additional actions are taken. The Methane Strategy says that the main sources of man-made methane emissions are: agriculture (36 percent), natural gas systems (23 percent), landfills (18 percent), coal mining (10 percent), petroleum systems (6 percent), and wastewater treatment systems (2 percent).

### Reducing Methane Emissions

The Methane Strategy outlines "cost-effective opportunities" to reduce methane emissions in four sectors of the economy: oil and natural gas; landfills; coal mining; and agriculture.

*Oil and Natural Gas Sectors.* According to the Methane Strategy, methane equivalent to 127 million tons of carbon dioxide (CO<sub>2</sub>) pollution was emitted from the natural gas industry; and methane equivalent to 32 million tons of CO<sub>2</sub> was emitted from the oil industry. The Methane Strategy lists a number of actions that the federal agencies will undertake or continue to reduce above-ground methane emissions from the oil and natural gas sectors:

- Department of Energy (DOE) and EPA will continue to collaborate with States to support and encourage emission reductions;
- Agencies will continue implementing existing Federal standards to cut emissions;
- EPA will release a series of “white papers” in the spring of 2014 that focus on methane and volatile organic compound (VOC) emissions and control technologies;
- DOE and EPA will engage in enhanced partnerships and stakeholder involvement to reduce methane emissions;
- The Interior Department will propose standards to minimize natural gas venting and flaring on public lands;
- DOE and EPA will identify policy recommendations for reducing emissions from energy infrastructure to increase the performance of the nation’s energy transmission, storage, and distribution systems;
- DOE will support the development of new technologies to reduce emissions through loan guarantees and increased budgetary funds; and
- PHMSA will continue to require that pipeline operators take steps to eliminate leaks and prevent accidental methane releases and evaluate the progress of states in replacing cast iron pipelines.

*Landfills.* While acknowledging that methane emissions released from landfills are already being captured and used as a source of clean energy, the Methane Strategy outlines how the Administration plans to increase the capture of methane emissions from landfills.

- EPA will release a proposed update to its current standards for new municipal solid waste landfills in the summer of 2014 and will issue an Advanced Notice of Proposed Rulemaking by June 2014 to engage industry and stakeholders on different approaches to cut landfill methane emissions from existing facilities; and
- EPA will utilize the Landfill Methane Outreach Program to assist municipalities and landfill owners to develop cost-effective voluntary methane recovery projects.

*Coal Mining.* To reduce coal mine emissions and increase mine safety, the Department of Interior’s Bureau of Land Management (BLM) and the EPA are planning two actions. BLM will release an Advance Notice of Proposed Rulemaking in April 2014, which will seek comment on ways to develop a program to capture, sell, or dispose of coal mine methane from Federal mining leases and the technologies that should be employed to support this program. Additionally, EPA will continue to encourage industry members to participate in the Coalbed Methane Outreach Program through a voluntary incentive program and will coordinate with the Department of Labor’s Mine Safety and Health Administration to ensure methane recovery is consistent with safety standards.

*Agriculture.* The Methane Strategy envisions using only voluntary actions, not regulations, to reduce methane emissions from agriculture. These actions include: releasing a Biogas Roadmap, which will outline voluntary strategies to reduce methane emissions in the dairy industry and supporting the development of biogas recovery systems.

### **Implications for Oil and Natural Gas Sectors**

*Oil and Gas New Source Performance Standards Rulemaking.* The Methane Strategy highlights EPA’s rulemaking to establish new source performance standards (NSPS) for the oil and gas sector under section 111 of the Clean Air Act. EPA promulgated a final NSPS rule in 2012, but is reconsidering the scope of that rule. In its current form, the NSPS rule covers only new and significantly modified infrastructure, and mandates only reductions in Volatile Organic Compounds (VOCs).

The Methane Strategy directs EPA to explore whether and how to extend the coverage of the NSPS rule to also regulate methane and cover existing infrastructure. To this end, the Methane Strategy directs EPA to issue in the spring of 2014 a series of “white papers” describing methane emissions from, and possible controls for, sources throughout the supply chain – including oil- and co-producing wells, liquids unloading, leaks, pneumatic devices, and compressors. In the fall of 2014, the EPA will determine “what if any” regulatory authorities it will apply to limit methane emissions from this sector. The Methane Strategy provides that any rulemaking is to be completed by the end of 2016, which coincides with the end of President Obama’s term.

In developing the “white papers,” EPA is likely to consider natural gas sector methane studies currently underway involving the Environmental Defense Fund (EDF) and some industry representatives. In addition, EPA may consult recent studies on the costs of different methane abatement technologies and techniques, such as the study recently developed by ICF International and commissioned by EDF. See [ICF International, \*Economic Analysis of Methane Emission Reduction Opportunities in the U.S. Onshore Oil and Natural Gas Industries\*](#).

The Methane Strategy does not mandate regulation, but suggests that regulations, if adopted, will invoke section 111(d) of the Clean Air Act, which authorizes certain regulation of existing sources of pollutants. Section 111(d) prescribes a federal-state process for such regulations, under which the states develop “standards of performance” for emissions, subject to EPA review and approval. EPA currently is in the process of developing a section 111(d) rule to address CO<sub>2</sub> emissions from existing power plants.

*Pipeline Safety Policy.* The Methane Strategy acknowledges that PHMSA’s pipeline safety regulations require that operators of natural gas pipeline systems continually monitor their systems for leaks. In addition, the Pipeline Safety Act requires that PHMSA biennially survey operators on their progress in adopting and implementing plans to ensure the safe management and replacement of cast iron pipe. To the extent that the Methane Strategy now links these activities to a methane reduction strategy separate from the safety purposes of the Pipeline Safety Laws, could have future implications for pipeline safety policies.

*Quadrennial Energy Review.* The Methane Strategy provides that the first installment of the Quadrennial Energy Review (QER), to be released in January 2015, will include recommendations on methane emissions abatement from the processing, transmission, storage, and distribution segments of the natural gas supply chain. The QER study could inform the development of EPA regulations under section 111.

*Venting and Flaring on Public Lands.* The Interior Department will develop a draft rule to update standards to reduce gas flaring on public lands later this year. This proposed rule may only have a minimal impact on oil and gas production because there is so little production occurring on federal lands; however, some states could implement this standard for wells on state and private leases.

### **For More Information**

Van Ness Feldman closely monitors regulatory developments in the Oil, Natural Gas, Pipeline Safety, and Environmental sectors. Please contact a member of our [Natural Gas](#) Practice or a member from our [Environmental](#) Practice if you have any questions.

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