



## WESTERN GOVERNORS' ASSOCIATION

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# Methane Emissions Regulation

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Western Governors' Association Policy Resolution 2015-02

## A. BACKGROUND

1. Air quality in the West can be impacted by human activities and natural phenomena, such as dust storms and wildfires. Methane has been identified as a potent greenhouse gas - estimated to have a comparative impact of 20-30 times greater than carbon dioxide over a 100-year period when vented into the atmosphere. Methane emissions can come from a variety of sources, including oil and natural gas operations, coal mines, landfills, and agricultural operations as well as natural sources.
2. States have statutorily-recognized authority to manage air quality within their borders. The Clean Air Act (the Act) recognizes that states should take a lead role in implementing various provisions of the Act, largely because emission of chemical substances affecting air quality often differs based on local industry, geography, and other state-specific factors.
3. Pursuant to a 2007 Supreme Court decision (1), on August 16, 2012, EPA published a final rule to amend two existing new source performance standards (NSPS) for reduction of volatile organic compounds (VOCs) from onshore natural gas processing plants (2) and to finalize new NSPS for certain crude oil and natural gas sources not previously regulated under the Act. This action also finalized National Emissions Standards for Hazardous Air Pollutants (NESHAP) for oil and natural gas production and for natural gas transmission and storage. EPA's final rule was modeled after regulations already in place in several states. EPA estimated that the final NSPS and NESHAP amendments would have the co-benefit of reducing emissions of methane by 1.0 million tons per year by 2015. (3)

4. The Bureau of Land Management (BLM) has announced its intention to update its regulations concerning the venting and flaring of methane, including Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases (NTL-4A).

5. Methane is also a valuable natural gas, the capture and commoditization of which can be beneficial for state economies and for the agricultural, waste and energy industries. Many western states - in cooperation with industry in those states - have already been implementing regulatory strategies to reduce methane emissions in oil and natural gas operations. These state regulations encourage enhanced capture of methane emissions, allowing for expansion of the market for the use and sale of methane while also substantially reducing the amount of methane emitted from oil and natural gas operations.

6. In March of 2014 President Obama introduced a Strategy to Reduce Methane Emissions (Strategy) as part of his Climate Action Plan. The Strategy sets forth a plan to further reduce methane emissions through incentive based programs and through the Administration's existing authorities.

7. On April 15, 2014, EPA released five technical white papers on potentially significant reduction of methane and VOC emission from five portions of the oil and natural gas sector: compressors, emission from completions and ongoing production of hydraulically fractured oil wells, leaks, liquids unloading, and pneumatic devices. The EPA white paper titled Oil and Natural Gas Sector Leaks uses two methods to estimate methane emissions - the first, a top-down approach to measurement based on data from the National Inventory (4) and the second, a detailed system of methane emissions reporting based on EPA data.

8. Oil and natural gas production is a vital component of many western states' economies and states are the primary regulators of this type of development.

9. Western states value the economic opportunity presented by the capture and commoditization of methane otherwise emitted from oil and natural gas production operations or other sources. State regulations that encourage capture of methane emissions can incentivize emission prevention and emission reduction efforts in oil and natural gas production operations and elsewhere.

## B. GOVERNORS' POLICY STATEMENT

1. Many western state economies depend on oil and natural gas production for economic development. Western Governors recognize the environmental and economic benefits to reducing methane emissions and the opportunities for beneficial use of the natural resource.

**2. Commoditization of Methane:** Western Governors recognize the economic value of methane capture and subsequent sale. Encouraging commoditization of this natural gas can provide economic value for states and incentivize methane emission reduction. Encouraging state oil and natural gas industry members to take steps to prevent methane emissions and increase methane capture will have substantial air quality and other environmental benefits.

In any forthcoming federal methane regulation EPA, BLM, or any other federal agency should ensure that the capture, commoditization, and sale of methane is promoted and that states are still able to create programs tailored to individual state needs, industries, and economies.

**3. Cooperative Federalism for Methane Regulation:** New federal regulations for methane emission reductions should recognize state authority under the Act.

Western Governors state the following:

**a) Treatment of States as Co-Regulators:** In determining federal methane emission reduction rules to promulgate, federal agencies should consult with states early in the rulemaking process, and should take into account state views, opinions, and economic needs. Western Governors urge federal agencies to learn from states' experience in methane emission regulation, to engage states as co-regulators, and to ensure state agencies and regulators have a robust voice and meaningful role to play in the development of a rulemaking for methane emission reduction before rules are officially proposed.

**b) Quantification of Methane Emissions:** States need to understand EPA measurement of methane and methane emissions. The EPA white paper titled Oil and Natural Gas Sector Leaks utilized two methods for estimating methane emissions release from the oil and natural gas sector.

In pursuing methane rulemakings federal agencies should work with states to ensure that one method of quantifying methane emissions is used and that the method is clear and is consistently applied. Doing so will ensure that methane emissions are reliably measured and that emission reduction efforts are consistently applied.

**c) State Flexibility to Determine Emission Reduction Methods:** Federal agencies should give states the flexibility to integrate a variety of technologies and tools to achieve methane emission reduction standards, while also providing states with continued and potentially increased economic opportunity. Furthermore, federal agencies should recognize methane emissions reductions that result from existing regulation of volatile organic compounds.

## C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct the WGA staff, where appropriate, to work with EPA, BLM, other federal agencies, Congressional committees of jurisdiction, and the Executive Branch to achieve the objectives of this resolution including funding, subject to the appropriation process, based on a prioritization of needs.

2. Additionally the Governors direct the WGA staff to develop, as appropriate and timely, detailed annual work plans to advance the policy positions and goals contained in this resolution. Those work plans shall be presented to, and approved by, Western Governors prior to implementation. WGA staff shall keep the Governors informed, on a regular basis, of their progress in implementing approved annual work plans.

1. Massachusetts v. EPA, 549 U.S. 497, 529 (2007).
2. Originally promulgated under the Clean Air Act, Section 111(b).
3. "Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Review," 77 Fed. Reg. 49489 at 49492 (16 Aug 2012).
4. Such as an oil and natural gas facility count, combined with an assessment of miles of pipeline.