Federal rule forces oil states to cut planet-warming methane emissions

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Within two years, a new federal rule will force oil- and gas-producing states to crack down on methane gas emissions—a major driver of climate change.

A handful of states already have rules that force drillers to increase monitoring and upgrade equipment, which advocates say provided an effective template for the federal action.

But many other states will be starting from scratch. In those states, some officials and oil industry leaders say the burden on regulators and fossil fuel producers may outweigh the benefits of reduced emissions.

"Is creating more paperwork going to have the effect the EPA hopes it will have in reducing methane?" said Matthew Bingert, manager of the oil and gas program in North Dakota's Division of Air Quality.

While carbon dioxide is emitted in far higher quantities, methane is a much more potent greenhouse gas—making it responsible for more than a quarter of the warming that the planet is currently experiencing. It also breaks down much faster in the atmosphere, meaning reducing methane emissions can have a more immediate impact than reducing carbon dioxide, which lingers for longer.

"That makes it a huge opportunity," said Jon Goldstein, senior director of regulatory and legislative affairs with the Environmental Defense Fund, a legal advocacy group. "If we can get after those emissions quickly, we can start to bend the curve on the climate problem quickly."

Oil and gas operations are the largest industrial emitter of methane. The U.S. Environmental Protection Agency estimates that its new rule will prevent 58 million tons of methane emissions by 2038—equivalent to the carbon emissions produced by the entire power sector in 2021.

Federal officials say the rule also will limit toxic pollutants that affect human health in the neighborhoods surrounding drilling operations and refineries.

While some Democratic-led states have gotten a head start on methane regulations, other oil-producing states, many under GOP control, say the new requirements are going to require massive amounts of data collection and analysis for both companies and regulators—and it's unclear how that work will be funded.

Attorneys general from 24 states sent a letter to the EPA last year saying the rule would impose excess costs on industry and overstep the agency's authority.

Last month, the federal agency published a final rule giving state agencies two years to draft plans that include regular industry monitoring for leaks at oil and gas operations. The rule also mandates new technologies that limit emissions and venting or "flaring"—burning off—of methane.

With the expansion of their Clean Air Act responsibilities, state agencies without existing methane programs say they'll likely need to add more staff, which would be funded by taxpayers or additional fees on the oil and gas industry.

The EPA did not make officials available for an interview. Law experts told ALM, a legal publication, that the rule is likely to face challenges in court.

State action

Climate advocates say the federal agency was spurred to act by the success of state-level methane rules, starting with regulations in Colorado in 2014. Over nearly a decade, Colorado has passed a series of rules to increase methane emissions monitoring, require infrastructure upgrades and crack down on flaring.

"Colorado has formed the basis for many of the EPA rules," said David McCabe, senior scientist with the Clean Air Task Force, a Boston-based environmental advocacy group.

State officials in Colorado denied a Stateline interview request, but oil and gas operators in the state say they've been able to meet the state's requirements.

"We produce some of the cleanest energy molecules in the world," said Christy Woodward, senior director of regulatory affairs with the Colorado Oil & Gas Association, a trade group. "We're not only on target to meet [Colorado's emissions reduction targets] but exceed them."

Some environmental advocates have a more mixed response. They praise both the Colorado and EPA rules requiring oil and gas drillers to upgrade to equipment that produces fewer leaks, along with strict rules on venting and flaring. But both programs rely on operators—rather than state inspectors—to monitor their own emissions and report leaks.

"There's not a lot of oversight to ensure that every operator is doing what they're claiming they're doing," said Andrew Klooster, Colorado field advocate with the nonprofit advocacy group Earthworks, which conducts its own inspections with imaging devices that can detect leaks.

Klooster noted that the rules, even with few state-run inspections, give watchdogs such as his team a mechanism to look for violations and hold polluters accountable.

Some environmental groups have been pushing the state to hire more staffers to conduct inspections, said Ean Tafoya, Colorado state director with GreenLatinos, an environmental justice organization.

"We know these companies are violating [emissions standards] in their reporting, and we want to see more enforcement," he said. "We have more to do."

Despite the concerns, advocates acknowledge the program likely has curtailed emissions. It also has given Colorado a head start toward meeting the new federal standards.

New Mexico regulators also established methane rules in recent years, requiring companies to capture 98% of the gas they produce by 2026. State officials say emissions have decreased since the rules were passed, estimating the current capture rate at around 60%.

"On net, emissions are down, and we have seen significant reductions in routine venting and flaring," said Dylan Fuge, deputy secretary of New Mexico's Energy, Minerals and Natural Resources Department. "Operators and the state are going to be well positioned to comply [with the federal rule]."

While the state's new standards have required significant infrastructure investments from oil and gas operators, state officials say it hasn't slowed the industry's expansion.

"Profits are higher than they've ever been; production numbers are higher than they've ever been," said Commissioner of Public Lands Stephanie Garcia Richard. "This is the time to increase oversight, when companies can afford it."

California regulators also have moved to restrict methane emissions from oil and gas operations, with mandates for leak detection, reporting and infrastructure upgrades. The state Air Resources Board did not respond to an interview request. Meanwhile, Pennsylvania last month began its own rulemaking on methane emissions, in anticipation of the

EPA action.

Economic concerns

In other oil-producing states, officials say the new rules will pose a challenge. Bingert, of the North Dakota agency, said the federal standards are likely to double the number of wells his agency is obligated to oversee.

"It's going to be an increased burden on not only industry but on us as a state agency," he said. "There's no talk of funding for these new regulations. Obviously more work is going to be going into it, so that's definitely a concern of ours."

Bingert said the agency might need to ask state lawmakers for more money to add positions to carry out the federal requirements.

In Wyoming, state officials fear that smaller companies will struggle to make the infrastructure upgrades required by the new rule.

"The cost to implement and the impact to those operations will be significant," said Tom Kropatsch, supervisor of the Wyoming Oil and Gas Conservation Commission. "It really impacts local communities if those operations go out of business, because the majority of the operators in Wyoming are small operators."

Industry officials in the state shared the same concern.

"That's a hard lift for some of these companies that are one or two people that don't have full regulatory departments," said Ryan McConnaughey, vice president and director of communications for the Petroleum Association of Wyoming, a trade group. "This is going to force smaller operators to shut down."

McConnaughey also said the requirements could strain the capacity of the state's Department of Environmental Quality. The agency, which did not grant Stateline an interview, cited that concern in a letter to the EPA.

"Conducting the compliance inspections, reports, and emissions inventories work commensurate with the requirements of the proposed rule places an overwhelming strain on agency staff and financial resources," agency Director Todd Parfitt wrote to the EPA.

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