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The Methane Regulatory Pendulum Swings Again: EPA Proposes Sweeping Changes to Federal Standards for the Oil and Natural Gas Sector

November 2, 2026
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Few environmental regulations better illustrate Washington's regulatory "ping-pong" than EPA's methane standards for the oil and natural gas sector. Over the last decade, successive administrations have repeatedly expanded, narrowed, rescinded, reinstated, and revised federal methane requirements, leaving industry to navigate a shifting compliance landscape with each change in administration. EPA's October 27, 2026 proposal to reconsider significant portions of the 2024 oil and natural gas New Source Performance Standards ("NSPS") and Emission Guidelines ("EG") under Subparts OOOOb and OOOOc represents the latest swing of the regulatory pendulum. If finalized, the proposal would substantially reduce compliance obligations in several areas, particularly with respect to lower-producing wells, associated gas flaring, equipment and control-device standards, and the Super Emitter Program. EPA estimates that the proposal would result in approximately $45 billion in savings, while preserving what the agency considers appropriate methane emission controls. EPA's proposal was published in the Federal Register on October 29, 2026. Comments must be received on or before December 16, 2026.

Significantly, EPA is not using this rulemaking to reconsider its general authority to regulate methane emissions from the oil and natural gas sector. Rather, the agency is addressing specific requirements adopted in the 2024 methane rule, while broader questions concerning greenhouse gas regulation are being addressed in separate proceedings. The present proposal therefore focuses on the appropriate design and scope of particular methane regulations, rather than resolving the threshold question of whether methane may be regulated under the Clean Air Act at all.

I. EPA Proposes to Eliminate the Super Emitter Program

Among the proposal's most consequential changes is the complete elimination of the Super Emitter Program. Adopted in 2024, the program created a regulatory framework under which EPA-certified third parties could identify large methane releases using approved remote-sensing technologies. Upon receiving a qualifying notification from

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EPA, owners and operators were required to investigate the reported emissions event, report findings to EPA, and take corrective action where necessary.

EPA now proposes to repeal the Super Emitter Program in its entirety. The agency questions the program's legal and policy foundations, including the role of third parties in identifying emissions events and triggering regulatory obligations. EPA also questions whether the program is necessary or effective given other requirements applicable to regulated sources and whether its expected emissions reductions justify its costs and implementation challenges. Because the program was incorporated into both the NSPS applicable to new, modified, and reconstructed sources and the EG applicable to existing sources, its removal would affect federal requirements as well as the presumptive requirements that States otherwise would be expected to address in Clean Air Act § 111(d) plans. Importantly, EPA's proposed repeal does not prevent States from developing and implementing their own Super Emitter Program based on the existing requirements, which several states are already doing.

II. EPA Reconsiders Associated Gas Requirements

Another centerpiece of EPA's proposal is its reconsideration of the 2024 rule's restrictions on flaring associated gas from oil wells. The 2024 rule determined that the best system of emission reduction ("BSER") generally required operators to capture and beneficially use associated gas by routing it to a sales line, using it onsite, or reinjecting it, rather than routinely flaring it. Although EPA provided certain transition periods and compliance flexibilities, particularly for wells facing infrastructure constraints, the rule ultimately established a framework strongly favoring capture and utilization over flaring. Since promulgation, EPA has received significant feedback regarding gathering-system limitations, gas quality issues, and other practical barriers operators face in securing outlets for associated gas.

In response, EPA proposes to replace the existing capture-focused approach with a substantially more flexible standard. EPA argues that the 2024 rule relied too heavily on the availability of third-party gathering and processing infrastructure that is often beyond an operator's control, raising questions regarding achievability and cost-effectiveness. Under the proposal, BSER would be based on routing associated gas to a flare or other control device capable of achieving at least a 95 percent reduction in methane and volatile organic compound ("VOC") emissions. Operators could continue to capture gas for sale, use it onsite, or reinject it where feasible, but those practices would no longer be required. EPA also proposes that if a portion of associated gas is routed to sales or used for another purpose, the remaining portion must comply with the 95 percent standard. For example, if a company can route 40 percent of its associated gas to a sales line, the company would need to route the other 60 percent to a control device with a 95 percent reduction, or to a flare.

EPA is also soliciting comment on less sweeping alternatives that would preserve the basic structure of the 2024 associated-gas program, while providing additional compliance flexibility. In particular, EPA requests comment on whether it should retain the current capture-and-sales framework but expand the circumstances under which

temporary flaring is permitted or extend the duration of temporary flaring allowances where operators face infrastructure constraints. EPA appears to recognize that gathering-system availability, processing constraints, and other third-party factors can affect an operator's ability to route gas to sales, even where the operator ultimately intends to comply with the capture requirements. These requests for comment suggest that EPA is considering whether targeted revisions to the existing framework could address implementation concerns without fully abandoning the 2024 rule's underlying preference for gas capture and beneficial use.

III. EPA's Reconsideration of the "No Identifiable Emissions" Standard

EPA's proposal would substantially revise the 2024 rule's "no identifiable emissions" ("NIE") requirements applicable to certain covers and closed vent systems ("CVS") associated with storage tanks. Under the existing rule, covered equipment generally must operate without identifiable emissions, creating a compliance framework that focuses heavily on the absence of observable emissions rather than solely on equipment design or overall control effectiveness. Since promulgation, industry has argued that the standard effectively functions as a zero-emissions requirement that may be difficult to satisfy under all operating conditions, even where equipment and vapor control systems are properly designed, maintained, and operated. Moreover, EPA stated in the preamble to the 2024 rule that any identified emissions would constitute a deviation of the emissions limitation, resulting in a framework under which the observation of emissions could itself establish noncompliance.

EPA now proposes to separate the requirements into distinct design and operational components and to fundamentally alter how compliance with the operational NIE requirement is evaluated. EPA proposes to distinguish between deviations of the design requirements and deviations of the operational NIE requirements. Under the proposed approach, failure to repair an identified emission or defect within 24 hours would constitute a deviation of the design requirement, although not necessarily an underlying violation. Separately, operators could demonstrate compliance with the operational NIE requirement by making repairs as soon as practicable, with an initial repair attempt within five days and final repair within 30 days, or by qualifying for the existing delay-of-repair provisions. A deviation of the operational requirement would occur if the applicable repair deadlines are not met and the delay-of-repair provisions do not apply.

The proposal also establishes a new framework for addressing recurring or "chronic" emissions events. After the third emissions event or defect from the same cover or CVS within a year, the owner or operator would be required to conduct an investigative analysis within 10 days to determine whether the underlying cause relates to equipment design, operation, maintenance, or prior repair efforts. The results of that investigation would have important compliance implications. If recurring emissions are attributable to a design flaw, EPA would treat the issue as a deviation of the design requirements. If the emissions result from inadequate prior repairs, the deviation would be attributed to the repair requirements. If operations, maintenance, or other site practices are responsible, the deviation would be classified under the operational requirements. EPA would also

require implementation of corrective measures identified through the analysis, including design modifications within 90 days and operational or maintenance-related corrective actions within 30 days. Taken together, these revisions would shift the NIE standard away from a framework in which the mere presence of emissions may establish noncompliance and toward one that focuses on whether operators identify emissions, complete timely repairs, investigate recurring problems, and address the root causes of repeated emissions events.

IV. Solicitation of Comment on "Legally and Practicably Enforceable" Standard

EPA is also soliciting comment on the definition of "legally and practicably enforceable" ("LPE"), which industry has identified as one of the more problematic existing requirements. Under the 2024 rule, EPA adopted an interpretation of LPE that many commenters argued effectively disqualifies numerous state regulatory programs, permits, and other federally enforceable mechanisms from serving as the basis for remaining below applicable Subpart OOOOb storage tank thresholds. In particular, stakeholders have asserted that the current LPE framework makes it difficult for state air permitting programs and other state regulatory requirements to satisfy EPA's criteria, thereby causing more storage tanks and other emission units to remain subject to Subpart OOOOb requirements than would otherwise be the case.

EPA now requests comment on whether its current interpretation of LPE is overly restrictive and whether alternative approaches would better account for the manner in which state permitting and regulatory programs are administered and enforced. The request is significant because a broader interpretation of LPE could allow a wider range of federally enforceable state permits and regulatory requirements to satisfy exemption criteria under OOOOb, potentially reducing the number of storage tanks and other sources subject to direct NSPS regulation. As a result, the LPE issue has implications that extend beyond compliance mechanics and could materially affect the scope of sources regulated under the federal methane program.

V. Revised Requirements for Marginal Wells

EPA is also proposing significant revisions to the treatment of lower-producing wells under Subparts OOOOb and OOOOc. The agency notes that marginal wells constitute a substantial portion of the nation's producing well inventory but account for a relatively small share of overall production. At the same time, EPA discusses studies estimating that marginal wells contribute a disproportionate share of methane emissions from oil and natural gas production. The agency is evaluating whether the 2024 rule appropriately accounts for the operational characteristics, emissions profiles, and compliance costs associated with these wells.

To address those concerns, EPA is proposing two alternative approaches to well-site subcategorization. Under the first option, EPA would distinguish between marginal and non-marginal well sites. EPA proposes to define a marginal well as a well that produced no more than 15 barrels of oil equivalent ("BOE") per day over the prior 12-month period

and a marginal well site as a site consisting exclusively of marginal wells with total site-wide production of no more than 15 BOE per day over the same period. EPA is also soliciting comment on whether marginal wells should be further subdivided based on production levels, including a potential distinction between sites producing 6 BOE per day or less and sites producing more than 6 BOE but no more than 15 BOE per day, which could result in additional regulatory flexibility for the lowest-producing wells. Under the second option, EPA would distinguish between conventional and unconventional well sites and tailor requirements based on that classification, including reduced requirements for conventional wells. The agency is seeking comment on which framework better reflects the operational and emissions characteristics of different well sites, as well as whether additional subcategories should be established within the marginal-well population and the extent to which compliance requirements should differ among categories.

VI. LDAR, Pneumatic Controllers, Control Device Monitoring, and Facility Modifications

EPA's proposal also includes several targeted revisions to the 2024 rule's leak detection and repair (“LDAR”) requirements. Most notably, EPA proposes additional flexibility in the use of advanced monitoring technologies and seeks to move away from compliance frameworks that rely heavily on a single detection method. The agency is proposing changes intended to facilitate the use of multiple monitoring technologies, including optical gas imaging and other alternative detection approaches, and is seeking comment on whether technology-neutral compliance options can achieve equivalent emissions reductions at lower cost. EPA also proposes revisions for components and equipment that are particularly difficult to monitor using conventional LDAR methods, reflecting concerns that certain 2024 requirements may not be practical or cost-effective in the field. More broadly, EPA questions whether some of the monitoring frequencies adopted in 2024 appropriately balance compliance burdens and emissions-reduction benefits and seeks comment on additional opportunities to tailor LDAR obligations based on emissions risk and source characteristics.

EPA also proposes technical revisions to requirements governing control devices and related equipment. These include changes addressing continuous pilot-flame requirements, flame-monitoring data deviations, control-device alerts, visible-emissions test conditions, temporary or backup control devices, temporary process controllers, and control-device categories. The agency’s stated objective is to provide additional compliance flexibility while maintaining appropriate emissions controls. The practical effect will depend on the final requirements and the equipment and circumstances to which each amendment applies.

The proposal also addresses pneumatic controllers and equipment leaks at gas processing plants. For certain high-pressure process controllers at transmission compressor stations, EPA proposes a separate regulatory approach based on its reassessment of technical feasibility and cost. The proposal should not be read as establishing a general exemption for pneumatic controllers across the industry. EPA also proposes changes to other equipment-specific requirements, including requirements

applicable to pumps, storage vessels, and equipment leaks at gas plants, in response to concerns raised following promulgation of the 2024 rule.

Finally, EPA proposes changes to certain requirements governing liquids unloading and other well-site operations, as well as technical corrections and clarifications to the existing regulatory text. These provisions form part of EPA's broader effort to address implementation concerns and reassess the costs and expected emissions reductions associated with selected requirements in the 2024 rule. Operators should evaluate the specific proposed amendments applicable to their facilities rather than assume that the proposal would provide across-the-board relief from existing monitoring, equipment, or control-device obligations.

VII. Implications for States and Future Congressional or Administrative Action

EPA's proposal would substantially revise several consequential elements of the 2024 methane rule, but it would not eliminate regulation of existing oil and natural gas sources under Clean Air Act § 111(d). As a result, states remain subject to the existing obligation to develop and submit plans for existing sources. If the proposed revisions are finalized, states currently developing those plans may need to reevaluate key program elements, including requirements relating to associated gas, well-site subcategories, the Super Emitter Program, and other compliance obligations. The proposal does not itself extend the January 22, 2027 deadline for state-plan submissions established under the existing framework.

The Congressional Review Act ("CRA") remains a potential source of uncertainty. Depending on when EPA submits a final rule to Congress and the applicable congressional-session timing, a future Congress and President could seek to disapprove the rule under the CRA. A successful disapproval would invalidate the rule and generally restrict the agency from issuing a rule in substantially the same form absent subsequent statutory authorization. The CRA's lookback provisions can affect the period during which a rule remains subject to congressional review, so the risk cannot be assessed solely by reference to the calendar year in which the rule is finalized. The timing of finalization and submission to Congress, together with the applicable congressional calendar, will determine the extent of that exposure.

Finally, unlike the CRA, which can nullify a recently promulgated rule through legislative action, a future administration seeking to unwind this rule would generally need to proceed through a new notice-and-comment rulemaking. EPA would need to revisit the underlying BSER determinations, cost analyses, technical feasibility findings, and enforceability conclusions that support the final rule. Because this proposal is grounded heavily in findings regarding achievability, legal and practical enforceability, and cost-effectiveness, a future administration would need to develop a sufficient record supporting different conclusions before reinstating more stringent requirements. Consequently, the final rule may prove more durable than prior pendulum swings, even if it remains politically controversial.