Western Regulators, Others Urge EPA To Learn From State Actions on Methane

By Tripp Baltz
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Feb. 6 — New federal rules to directly regulate methane emissions from oil and gas operations should line up with, or at least not interfere with, approaches already being used in the West, regulators, industry representatives and environmentalists in Western states said recently.

The Environmental Protection Agency and Bureau of Land Management, both of which are planning to propose rules to directly regulate methane emissions, should consult with states early in the rulemaking process and take into account state views, opinions and economic needs, the Western Governors’ Association said in a policy statement (Resolution 2015-2).

The EPA in mid-January released a broad-based strategy targeting methane emissions from the oil and gas industry and said it would propose a rule in the summer of 2015 (10 DEN A-1, 1/15/15). As it develops the proposed rule, the EPA should cooperate with Western states that are taking specific steps to reduce methane, whether by direct rule or collaterally through strategies aiming at ozone precursors, sources from Western states said.

“We already have a good relationship with operators to solve our ozone problem,” Brock LeBaron, deputy director of the Utah Division of Air Quality, told Bloomberg BNA Feb. 5. “We’ve got a plan, and we’re following it and implementing it and being proactive about it.”

Don’t Work at Cross Purposes

“We don’t know what EPA is going to do,” he added. “Is this something that is going to work with Utah, or go at cross purposes with what we are already doing? We are very concerned about some sort of national, one-size-fits-all approach, and whether that will fit in with our approach.”

The methane rule to be proposed by the EPA would not be the first to directly regulate the greenhouse gas. In February 2014, Colorado adopted the nation’s first statewide limit on methane emissions from natural gas operations.

“We hope EPA will follow Colorado's lead in one important respect, by directly regulating methane emissions,” Dan Grossman, Rocky Mountain regional director and senior counsel for the Environmental Defense Fund in Boulder, Colo., told Bloomberg BNA Feb. 5.

Meanwhile industry representatives contend a new federal rule would be redundant and unnecessary. “The President’s plan is another case of the Administration adding new red tape to make mandatory what industry has been doing voluntarily for several years,” Kathleen Sgamma, vice president of government and public affairs for the Western Energy Alliance, a regional oil and gas industry association based in Denver, said in a statement when the EPA strategy was announced.
'Learn From States.'

The EPA said its rule will establish emissions standards for methane and volatile organic compounds from new and modified oil and natural gas wells. The final rule is expected in 2016.

In addition, BLM, which is part of the Interior Department, will propose this spring new standards to reduce venting, flaring and leaks of natural gas from new and existing oil and natural gas wells on public lands.

When the EPA strategy was announced, several air quality officials from Western states called attention to existing efforts in the region that take aim at methane emissions from the oil and gas industry.

Any new federal regulations for methane emissions reductions “should recognize state authority” under the Clean Air Act, the Western Governors’ Association resolution stated. The WGA urged “federal agencies to learn from states’ experience in methane emission regulation, to engage states as coregulators, 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.”

For example, the Colorado rules are designed to reduce emissions of volatile organic compounds and other hydrocarbons. They include leak detection requirements for drilling and production processes, monthly inspections of large emissions sources and a timeline for leak repairs at oil and gas facilities (Regulations 3, 6 and 7; 37 DEN A-5, 2/25/14).

It is hard to say how the federal rules will affect the Colorado rules, Will Allison, director of the Colorado Air Pollution Control Division, told Bloomberg BNA Feb. 5. “From all indications, it looks like what they are going to propose is going to align nicely with what we have in Colorado,” he said.

Existing v. New Sources Only

However, one key difference, he said, is that “Colorado’s leak detection and repair requirements apply to both new and existing sources, while the EPA program is looking at only new sources.”

Colorado didn’t play a direct role in the EPA announcement in mid-January, but since then it has had “a number of conversations with them about what our rules do.”

It would be helpful if the EPA and BLM “reach out to states,” Allison said. “EPA can learn some valuable lessons from Colorado.”

Grossman said it does not appear the new EPA regulation will have any real impact on Colorado operators “beyond what they are required to do to comply with the state” rule. “If they are in compliance in Colorado, they will be in compliance with the federal rule,” he said.

“I can’t imagine a situation where their leak detection and repair requirements would be more stringent than Colorado’s,” he said. “Colorado moved early and aggressively to the greatest extent we could, and other states will have some catching up to do.”
The Environmental Defense Fund worked with oil and gas operators—initially, Anadarko Petroleum Co. and Noble Energy—to hammer out the new rules in negotiations brokered by Colorado Gov. John Hickenlooper (D). Later, Encana Corp. and DCP Midstream played a part in formulating the regulations.

**No ‘Kumbaya Moment.’**

Despite the involvement of those energy companies, the Colorado rules don’t have the broad support of the industry, Sgamma said. “This has been described as a done deal in Colorado, but to suggest it was a Kumbaya moment would be to mischaracterize it,” she said. “And expanding it nationwide also does not have broad support.”

During the rulemaking process before the Colorado Air Quality Control Commission, producers and trade associations said they opposed the rule because it directly regulated methane instead of focusing on ozone precursors, Grossman said. “A significant segment of the industry thought it should be an ozone-only rule,” he said.

Meanwhile representatives of some environmental organizations urged the commission to pass rules with more stringent setback requirements for oil and gas facilities near homes and other occupied buildings, Grossman said. A setback is the minimum distance required between wells and homes.

Ultimately, Colorado’s leak detection and repair requirements are “not a good model” for a national rule, Sgamma said. “It’s more expensive than it needs to be, and it fails to reflect what industry has done to reduce emissions already.”

From 2006 to 2012, natural gas production increased by 26 percent, while methane emissions from production facilities increased by more than 40 percent, she said. Sgamma cited the EPA Greenhouse Gas Inventory, which reported that industry methane emissions have declined 12 percent since 2011, and emissions from hydraulic fracturing have decreased by 73 percent.

“We’re the ones who have voluntarily reduced methane emissions,” she said. “We don't need government red tape glomming on to a success story that industry has already started to write.” The EPA believes in “rule upon rule upon rule,” she added. “These rules are getting completely redundant. We are already doing things that are reducing methane.”

Utah is concerned that a national regulatory regime will retard its efforts to reduce ozone pollution in the Uintah Basin in the northeastern part of the state, LeBaron said. Oil and gas operations have been identified as a major source of ozone precursor emissions in the basin during the wintertime, and the region has exceeded the EPA eight-hour standard during the winters of 2009-2010 and 2010-2011.

“Sure, we’re worried about it,” LeBaron said. “I saw the EPA fact sheet. There are special requirements for areas that already had an ozone problem, control and quality guidelines. I don’t know how that’s going to play out with what we’re already doing.”
No Credit for Early Action

What oil and gas operators are doing right now in the basin “is proactive and voluntary,” he said. “I know they are concerned about this. If they have to meet targets for leakage rates, I’d be worried they are not going to do proactively as much for ozone. Under a methane leak detection and repair requirement, they might not get credit for early action.”

The WGA resolution articulated another reason federal regulation should recognize state authority under the Clean Air Act: 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,” the WGA statement said. “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.”

The Western Governors’ Association policy resolution on methane regulation is at http://op.bna.com/env.nsf/r?Open=fwhe-9tgn5p
Additional information on Utah’s rules on ozone precursors is at http://op.bna.com/env.nsf/r?Open=fwhe-9tgly