



## MEMORANDUM

January 7, 2024

TO: Members of the Subcommittee on Environment, Manufacturing, and Critical Materials

FROM: Committee Majority Staff

RE: Hearing entitled "Protecting Clean American Energy Production and Jobs by Stopping EPA's Overreach."

---

### I. INTRODUCTION

On Wednesday, January 10, 2024, at 10:00 a.m. (ET) in 2123 Rayburn House Office Building, the Subcommittee on Environment, Manufacturing, and Critical Materials will hold a hearing entitled "Protecting Clean American Energy Production and Jobs by Stopping EPA's Overreach." The hearing will examine the Environmental Protection Agency (EPA) actions affecting American oil and natural gas operations, particularly those regulations and programs related to methane emissions.

### II. WITNESSES

#### Panel I

- **Mr. Joseph Goffman**, Principal Deputy Assistant Administrator, Office of Air and Radiation, U.S. Environmental Protection Agency.

#### Panel II

- **Mr. Drew Martin**, Managing Member and Director of Finance, Miller Energy;
- **Mr. Patrick Montalban**, Chairman and CEO, Montalban Oil and Gas Operations;
- **Mr. Mike Oestmann**, President and CEO, Tall City Energy; and
- **Mr. Jon Goldstein**, Senior Director, Regulatory and Legislative Affairs at Environmental Defense Fund.

### III. BACKGROUND

#### EPA Regulations for the Oil and Natural Gas Sector

Under the Clean Air Act (CAA), the EPA has issued regulations targeting a wide range of operations and equipment used to produce oil and natural gas, including wells, gathering lines, processing facilities, storage tanks, and transmission and distribution pipelines. EPA regulations

are currently in place to control wastewater and emissions of criteria pollutants and volatile organic compounds that contribute to the formation of ozone. Operators of oil and natural gas facilities must also comply with EPA reporting requirements to demonstrate compliance with New Source Performance Standards and Emissions Guidelines, National Emissions Standards for Hazardous Air Pollutants, and the Greenhouse Gas Reporting Program.

### **Recently Announced EPA Regulatory Actions**

On December 2, 2023, the EPA issued a final rule that updates and expands regulations for the oil and natural gas sector.<sup>1</sup> The final rule includes New Source Performance Standards from new, modified, and reconstructed oil and natural gas sources. The rule also includes new Emissions Guidelines, which set procedures for States to develop implementation plans. Prior to its finalization, States and regulated entities submitted comments to the EPA raising concerns about the scope, legal durability, and negative impacts of the EPA's plans to impose additional regulations on methane emissions. The EPA's regulatory impact analysis acknowledges that the final rule will increase regulatory compliance costs, which is likely to raise prices for U.S. consumers and decrease domestic oil and natural gas production.<sup>2</sup> Prior to the finalization of the methane rule, the EPA received numerous comments that raise significant questions about the EPA's regulatory approach. For example, commentors challenged the EPA's opinion that the regulation complies with the CAA, raised concerns about the regulation's impact on domestic energy production, and identified flaws with the EPA's cost-benefit analysis and technical assumptions.<sup>3</sup>

On November 21, 2023, the EPA proposed amendments to two air toxics standards that apply to oil and natural gas operations: the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for oil and natural gas production facilities and the NESHAP for natural gas transmission and storage facilities.<sup>4</sup> The EPA will accept written comments on the proposal through January 16, 2024.

On August 1, 2023, the EPA proposed revisions to the Greenhouse Gas Reporting Program to expand reporting requirements under the petroleum and natural gas source category (subpart W).<sup>5</sup> In issuing the proposal, the EPA referenced Section 60113 of the Inflation Reduction Act of 2022 (IRA), which amended the CAA by adding Section 136, the "Methane Emissions and Waste Reduction Incentive Program for Petroleum and Natural Gas Systems." Section 136 of the CAA requires the EPA to revise the requirements of subpart W to ensure that reporting is based on empirical data to reflect accurately reported emissions data. During the comment period, the EPA was made aware of numerous technical and policy flaws with the

---

<sup>1</sup> [Standards of Performance for New, Reconstructed, and Modified Sources and Emissions](#)

<sup>2</sup> [Regulatory Impact Analysis of the Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review](#)

<sup>3</sup> See, e.g., Comments filed by the Permian Basin Petroleum Association on EPA's Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review at 86 Fed. Reg. 63,110 (Nov. 15, 2021).

<sup>4</sup> [Removal of Affirmative Defense Provisions From the National Emission Standards for Hazardous Air Pollutants for the Oil and Natural Gas Production Facility and Natural Gas Transmission and Storage Facility Source Categories](#)

<sup>5</sup> [Greenhouse Gas Reporting Rule Subpart W Proposal](#)

proposal, in addition to broad concerns that the EPA is undertaking the rulemaking in a manner that is not consistent with the IRA and congressional intent. For example, the EPA received comments that the subpart W proposal will dramatically increase the number of small to mid-sized operations required to report and therefore subject to EPA charges for methane emissions.<sup>6</sup>

These regulatory proposals occur against a backdrop of other proposals under consideration by the EPA that affect various stationary sources in the oil and gas sector. These include proposals issued on May 11, 2023, to limit greenhouse gas emissions for fossil fuel-fired power plants, including from both new and existing natural-gas-fired plants and from existing coal-fired plants, pursuant to Section 111 of the CAA.<sup>7</sup> They include proposals published on January 27, 2023, to revise air quality standards for fine particulate matter.<sup>8</sup> The impacts of the current proposals in relation to the impacts of other EPA regulatory proposals may be an issue for policymakers.

### **Additional Expected EPA Regulations**

In August 2022, the IRA was passed on a party-line vote without a hearing or debate in Congress. The IRA included several provisions that expand the EPA's authority to regulate methane emissions. In addition to the required changes to subpart W referenced above, the IRA directs the EPA to impose and collect a charge on the reported amount of methane emissions that exceed certain thresholds, based on the type of facility and the amount of natural gas sent to sale. The EPA announced that it will be undertaking one or more separate actions in the future to implement the remainder of CAA Section 136.

There are numerous questions about how the EPA will implement Section 136 of the CAA, since there is not an explanation of this provision in the accompanying committee report, and because it was not the subject of a hearing or debate in Congress. It is unclear how the methane fees and the recently finalized methane regulations will interact with each other. For example, the EPA has not indicated how it will implement statutory exemptions for regulatory compliance and when there is a lack of pipeline infrastructure available. It is also unclear how the EPA will calculate the methane fee and which operators will be forced to pay the fee. There are also questions about how emissions will be reported, whether the EPA is coordinating with States, and when the EPA will enforce compliance with new methane fees and regulations. While the EPA has not proposed rules or guidance to help oil and natural gas operators prepare

---

<sup>6</sup> See, e.g., Comments filed by the Permian Basin Petroleum Association on EPA's Greenhouse Gas Reporting Rule: Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems at 88 Fed. Reg. 50282 (August 1, 2023).

<sup>7</sup> The Proposed Rules involve five separate proposed actions. See "New Source Performance Standards for Greenhouse Gas Emissions From New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emissions Guidelines for Greenhouse Gas Emissions From Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule," at [88 Fed. Reg. 33,240](#) (May 23, 2023).

<sup>8</sup> See Environment, Manufacturing, and Critical Materials Subcommittee Hearing, "Protecting American Manufacturing: Examining the EPA's Proposed PM2.5 Rule," September 19, 2023, linked [here](#). Many of the proposed rules are part of a larger, comprehensive suite of regulatory actions for fossil power generation. These regulatory actions include the Interstate Transport Rule, Regional Haze, Risk and Technology Review for the Mercury Air Toxics Rule, effluent limitations, and a legacy coal combustion residue rule.

for anticipated methane fees, the IRA authorizes the EPA to begin imposing charges for methane emissions reported for calendar year 2024.

### **Recent Committee Activity**

On November 7, 2023, Chair Rodgers and Subcommittee Chair Johnson sent a letter to EPA Administrator Regan requesting information regarding EPA regulatory actions targeting methane emissions from the oil and natural gas sector.<sup>9</sup> The letter followed up on a previous letter sent to the EPA on June 9, 2023, that outlined significant concerns and requested information relating to the EPA's compliance with Section 111 of the CAA and Section 60113 of the IRA.<sup>10</sup> In its written response to the Committee's letters, the EPA failed to provide both (1) relevant information and (2) the requested documents regarding the EPA's interpretation of the statutory text and its plans to impose additional regulations and fees on American oil and natural gas production.

### **IV. ISSUES**

The following issues may be examined at the hearing:

- The impact of EPA's methane regulations on oil and natural gas supply, prices, and employment;
- The impacts of EPA's methane regulations and programs in relation to the impacts of other EPA regulatory proposals on the oil and natural gas sectors;
- EPA's enforcement of new methane emissions regulations; and,
- The status and enforcement timeline of new methane regulations, fees, and reporting requirements.

### **V. STAFF CONTACTS**

If you have any questions regarding this hearing, please contact Elise Krekorian, Brandon Mooney, or Mary Martin of the Committee staff.

---

<sup>9</sup> See Letter from Chair Cathy McMorris Rodgers and Chair Bill Johnson to EPA Administrator Regan dated November 7, 2023. Available [here](#).

<sup>10</sup> See Letter from Chair Cathy McMorris Rodgers and Chair Bill Johnson to EPA Administrator Regan dated June 9, 2023. Available [here](#).