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PERSPECTIVE

New GHG rule for oil and gas facilities

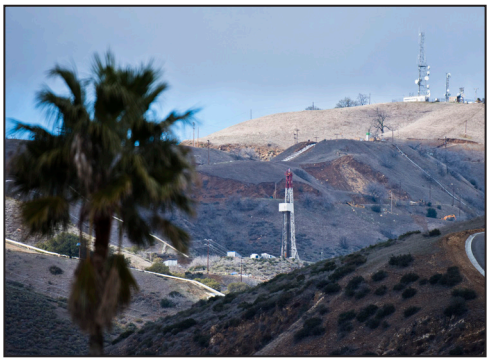
By Shannon S. Broome
and Daniel Grucza

Late last month, California made its first foray into limiting methane emissions from the oil and gas sector. The California Air Resources Board approved greenhouse gas (GHG) emission standards for crude oil and natural gas facilities, originally proposed for adoption last year. The ARB characterizes the new rule as "the most comprehensive of its kind in the country." It is generally considered the nation's strictest rule aimed at curbing methane emissions, seeking cuts of up to 45 percent over the next nine years.

The U.S. Environmental Protection Agency indicates that methane is the second most prevalent GHG emitted in the U.S. with historic methane emissions accounting for about 30 percent of the "total current warming influence" due to GHG emissions. The EPA-estimated "global warming potential" of methane is 28 to 36 times greater than carbon dioxide, with the oil and natural gas industry contributing nearly 29 percent of total methane emissions in the U.S.

It is not surprising that the California Legislature enacted Senate Bill 1383 last September. The bill requires the ARB to reduce methane and fluorinated gases to 40 percent of 2013 levels by 2030. SB 1383 specifically directs that oil and natural gas sector methane emissions be targeted. In addition to helping ARB achieve the SB 1383 goals, the ARB has cited the methane leak from the Aliso Canyon gas storage field in support of its action.

The rule's coverage is broad, regulating: onshore and offshore crude oil or natural gas production; crude oil, condensate and produced water separation and storage; natural gas gathering and boosting stations; natural gas processing plants; natural gas transmission compressor stations; and natural gas underground storage. It would apply to private, state and federal land; however, tribal land would be exempt. The rule requires regulated entities to take actions to limit vented and fugitive methane emissions from equipment and operations.



New York Times News Service

The Southern California Gas Company facility in Aliso Canyon was the site of a leak last year.

Relation to Federal Rules

The ARB rules are issued against the backdrop of a federal program that began in 2009, shortly after President Barack Obama took office. That year the EPA issued its "endangerment finding" under the Clean Air Act, determining that GHGs — the mixture of methane, carbon dioxide, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride — "may reasonably be anticipated both to endanger public health and to endanger public welfare" when released into the atmosphere and that automobile emissions cause or contribute to that endangerment. In 2012, the EPA issued comprehensive regulations covering volatile organic compound emissions from the oil and natural gas production sector. — significantly expanding its prior regulation of that source category, under the New Source Performance Standard provisions of Clean Air Act Section 111(b).

In June 2016, the EPA took a step farther — regulating directly for the first time methane emissions from this sector under Section 111(b), even though those 2016 rules would not achieve significant reductions in methane beyond what the 2012 rules had achieved. Why? Simple. The EPA's authority under the Clean Air Act to regulate existing sources — and existing sources are by far the largest sources of methane emissions from this sector — is limited. Only if the EPA issued a Section 111(b) new and modified source regulation would it have authority to regulate the existing sources under the parallel provision of the Clean Air Act, Section 111(d). (Recall that the EPA's Clean Power Plan for existing utility plants was grounded in Section 111(d).)

The EPA was poised to fulfill its promise to address existing oil and gas plants — having issued a costly information request to several companies just before the election and placing a rulemaking on its schedule for next year. The final rules for new plants now face potential elimination or at least a severe cutback. Congress is considering eliminating the June 2016 rules with the Congressional Review Act — four late-term Obama administration rules have already fallen victim to this blunt instrument which expunges a regulation and prohibits an agency from adopting a substantially similar regulation. Also, the EPA has already announced that it is willing to take another look at the June 2016 rules and determine if they should be rescinded or modified. Given the likely delay, the ARB's regulation means that California will once again be at the forefront of regulation. It remains to be seen if other states will follow.

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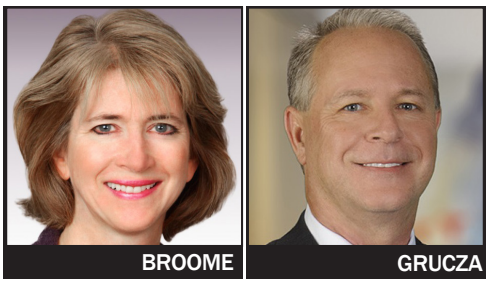

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