



EPA's Proposal to Reduce Climate- and Health-Harming Pollution from the Oil and Natural Gas Industry: Planning Process for States

November 2, 2021 - The U.S. Environmental Protection Agency (EPA) is taking a significant step in fighting the climate crisis and protecting public health through a proposed rule that would **sharply reduce methane and other harmful air pollutants from both new and existing sources** in the oil and natural gas industry. EPA's proposal would secure **major climate and health benefits for all Americans** by leveraging innovative technologies and **proven, cost-effective solutions that major oil- and gas-producing states** and leading companies **are already using to minimize or eliminate this harmful pollution.**

States would have a critical role in achieving these reductions, through **state plans that reduce methane emissions from existing oil and natural gas sources** across the country. **EPA sought input** from state environmental and energy regulators as it developed the proposed rule, and the proposal reflects their feedback, providing **states the opportunity to leverage their existing programs or develop new programs** that are at least as effective as the final presumptive standards.

EPA's Proposal Recognizes States' Unique Roles

- Protecting climate and air quality is a federal-state partnership. Section 111(b) of the Clean Air Act assigns EPA the job of developing New Source Performance Standards (NSPS) for certain categories of new, modified and reconstructed source of pollution. Once EPA issues an NSPS for certain pollutants, section 111(d) of the law requires the Agency to issue regulations establishing procedures for states to submit plans that reduce those pollutants from existing sources in the same industrial category. These regulations are known as "Emissions Guidelines."
- Emissions Guidelines do not impose requirements directly on sources. Instead, they establish procedures for states to follow as they develop plans that establish, implement and enforce performance standards for "designated facilities," which is the term EPA uses for existing sources. EPA is proposing Emissions Guidelines for methane as part of the proposed rule.

EPA's Proposal Provides States Clear Guidance for Developing Plans While Also Giving Them Room to Adopt Their Own Approaches

- The proposed Emissions Guidelines include “presumptive standards” for the same types of facilities that are covered by the NSPS, with the exception of well completions and liquids unloading, which always are considered new or modified sources. The presumptive standards are intended to provide states with a starting point, much like a model rule, as they develop standards to include in their plans.
- The Clean Air Act requires that states adopt standards in their plans that generally reflect the emission reductions achievable by applying the Best System of Emission Reduction (BSER) that the EPA Administrator determines has been adequately demonstrated. EPA’s proposed presumptive standards are based on BSER, which the Agency also is proposing for each type of existing source covered by the rule. Most of the presumptive standards in the proposal mirror the standards EPA is proposing for new sources.
- Once the Emissions Guidelines are final, states must submit plans that establish standards that generally are as stringent as the presumptive standards. The law allows a state to apply a less-stringent standard to a particular facility or type of facility, provided it makes certain demonstrations. Those include unreasonable cost of control based on a source’s age, location or basic design, and the physical impossibility of installing emissions control equipment, among others.
- A number of states have issued, or have proposed, their own regulations for methane. EPA’s proposal would give states the flexibility to leverage their existing programs for their state plans or to develop new programs that are at least as effective as the presumptive standards. Several states requested this flexibility during EPA’s pre-proposal outreach on the rule. EPA is seeking comment on the ways existing state programs might be incorporated into state plans under the Emissions Guidelines.
- Existing sources located in Indian country would not be included in a state’s plan. Eligible tribes would have the opportunity, but not the obligation, to develop their own plans that establish performance standards for existing sources on their tribal lands.
- EPA expects to propose updates shortly in a separate rule to establish implementation timelines that will generally apply to all of EPA’s future Emissions Guidelines under Clean Air Act section 111(d), including a deadline for states to submit plans to EPA for review once an Emissions Guideline is final. This separate proposal will include other general provisions for states and tribes to follow, such as how states may consider the remaining useful life of a facility and other factors, as they develop their plans.

EPA's Proposal Would Ensure that States Make Their Plan Development Process Accessible to Overburdened and Underserved Communities.

- A robust and meaningful public participation process is critical to ensuring that states consider the impacts of their proposed plans on public health and welfare.
- States already are required to provide public notice and hold one or more public hearings before adopting plans and submitting them to EPA for review and approval. In addition to these steps, EPA is now proposing to require states to identify and conduct meaningful engagement with underserved and overburdened communities as they develop state plans. This low-income communities, communities of color, and indigenous people living near the designated facilities and who may be affected by a state's plan.

This outreach and engagement would include sharing information with all stakeholders throughout the plan development process and seeking their input before a plan is adopted and submitted to EPA. [For More Information](#)

- To read the proposed rule and additional fact sheets, visit <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry>