



February 13, 2023

U.S. Environmental Protection Agency
EPA Docket Center
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Docket ID No. EPA-HQ-OAR-2021-0317

To Whom It May Concern:

The Western States Air Resource Council (WESTAR), a regional, non-partisan, non-profit association of state air pollution control agencies in the western United States, respectfully submits on behalf of our members, comments regarding the U.S. Environmental Protection Agency's (EPA's) supplemental notice of proposed rulemaking: "Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review", published in the Federal Register on December 6, 2022 (87 FR 74702).

This supplemental proposal is extensive and, if finalized, would update, strengthen, and expand the methane gas standards that affect oil and gas operations. The proposal would (1) revise the New Source Performance Standards (NSPS) Subparts OOOO and OOOOa (Quad O and Quad Oa) for sources constructed or modified after August 2011 and September 2015, respectively, (2) create a new Subpart OOOOb (Quad Ob) for sources constructed or modified after November 2021, and (3) create a new Subpart OOOOc (Quad Oc), which would impose on each state the obligation to adopt conforming emission standards for existing sources. In general, WESTAR supports reductions in air pollutant emissions and this proposed rule would result in significant reductions from ozone precursors, greenhouse gases, and air toxics. However, WESTAR members have brought forward concerns about the proposed rule, relayed in this letter.

A 60-day comment period on a proposal as complex as this makes it difficult for western states to review and respond to with great detail. Therefore, this comment letter addresses key, high-level concerns of western states and Tribes.

- 1. Meaningful Engagement** States have the responsibility for implementing many important air quality rules, objectives, and policies. Therefore, it is critical that a relationship exists between EPA and states that recognizes states' roles as regulatory partners and fosters a sense of shared accountability. This relationship is based on a foundation of transparency and early collaboration. As it applies to the promulgation of this rule in particular, states have felt early collaboration and meaningful engagement to be lacking. EPA has missed a wealth of information and practical

control program knowledge as well as the broadest perspective of how emissions for this sector are actually managed, by not reaching out through the standing western and national oil & gas working groups that bring together state, Tribal, and local air quality agencies.

A plan to meet with state, Tribal, and local air agencies, gather necessary information, and conduct analyses to address the control concepts proposed are all necessary steps to develop effective and efficient regulations. WESTAR commented on the November 21, 2021 proposed rule and encouraged EPA to provide ample time for public comment and engagement when the actual regulatory language was proposed as a supplement. EPA did not engage or provide opportunities to engage in potentially constructive dialogues with states, Tribes, and local air agencies between the November 2021 proposed rule and the November 2022 publication of the supplemental proposal. The supplemental proposal significantly broadens the November 2021 proposal, and states, Tribal, and local air agencies were not given adequate time to assess the impact these significant policy and technical requirements may have on their air programs. A 60-day comment period makes it difficult for states, Tribal, and local air programs to provide more substantial comments and input based on their experience and knowledge.

WESTAR asks that EPA do more to engage with oil and gas-producing states, Tribes, and local air agencies that will be affected by this rule.

2. Regulatory Agenda, Funding, Resources

EPA has over 100 actions on its Fall 2022 Regulatory Agenda, including major nationwide rules with broad applicability. In October 2022, EPA proposed the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Reconsideration of Fugitive Emissions Rule and then in December 2022, proposed updated requirements to the Adoption and Submittal of State Plans for Designated Facilities: Implementing Regulations Under the Clean Air Act Section 111(d). Along with the Bureau of Land Management's November 2022 proposed rule for Waste Prevention, Production Subject to Royalties, and Resource Conservation, the intertwined impacts of all these rules feel very uncertain. Western state, Tribal, and local air agencies are concerned about the unknown comprehensive effect of advancing these actions simultaneously.

States acknowledge that this ambitious agenda, coupled with implementing programs under the Inflation Reduction Act, will be demanding, especially given understaffing issues at both the federal and state levels. Not having a clear picture of funding mechanisms, whether it's potential IRA funding or other funding streams, means states, Tribes, and local air agencies cannot clearly plan for what it may take to implement all requirements under the proposed rule. The cost burden for agencies with large numbers of oil and gas facilities is not insignificant, and with no additional funding to air agencies identified, state, Tribal, and local air agency programs will certainly be strained. State, Tribal, and local air agencies will need additional funding from EPA to successfully plan for and implement the requirements in EPA's Supplemental Proposal. WESTAR requests that EPA provide sufficient funding to offset or lessen the burden placed on states, Tribes, and local air agencies under the proposed rule and resultant supplemental actions.

3. States and Tribes Need Adequate Time to Draft Plans

Many states already have oil and gas control programs in place and will have to follow EPA's outlined criteria to determine if those programs are equivalent to Quad Oc. Since there are many more existing sources than new, modified, and reconstructed sources, these plans will be complex and take time to develop. This includes analyzing and potentially modeling impacted sources, evaluating emission inventories, consulting stakeholders, and examining compliance and enforcement needs, among numerous other actions.

In addition, EPA states that "For most designated facilities, the EPA proposes to conclude that compliance with the implementing state or Federal plan that is consistent with the presumptive standards in EG OOOOc would constitute compliance with the older NSPS because the presumptive standards proposed for EG OOOOc result in the same or greater emission reductions than the current standards in the older NSPS." (87 Fed. Reg. 74,716). In addition to devoting resources toward the implementation of Quad Oc for previously unregulated sources, state, Tribal, and local air agencies will also need to devote time and resources to review how Quad Oc documentation fulfills the KKK, Quad O, or Quad Oa requirements.

Taking this all into consideration, the requirement for states, Tribes, and local air agencies to do this level of analysis and submit a plan to EPA within 18 months of final rulemaking is unrealistic for many agencies and runs the risk of EPA receiving inadequate and incomplete plans. To avoid such a situation, WESTAR requests that EPA allow no less than 36 months for plan development and submission.

4. Super-emitter Response Program

The Supplemental Proposal includes elements of a super-emitter response program, designed to reduce emissions associated with large emission events (>100kg methane/hr). EPA-approved third-party entities can notify owners and operators of regulated facilities when a super-emitter event is detected. Once notified, owners and operators would be required to conduct a root cause analysis and take corrective actions to address emissions within ten days of the event. If the super-emitter event is confirmed, details would need to be reported to both the EPA and state, Tribal or local authorities.

While commendable, the proposed program lacks important implementation details and trends away from the usual delegation of authority to the state, Tribal, and local air agencies that the Clean Air Act is built on. WESTAR members have concerns that this program could convolute the state, Tribal, and local air quality compliance and enforcement process and add to misinformation maladies.


Instead, there are many options available for EPA to leverage remote sensing and satellite data to track methane emissions and detect super emitter events. EPA may wish to augment its own detection programs with a focus on improved data accessibility and transparency, making information more readily and easily available for the public to access and understand, in ways that productively enable their engagement.

5. **Requirements for Pneumatic controllers and pumps**

EPA proposes that pneumatic controllers and pumps have zero methane and VOC emissions (except for pneumatic controllers at sites in Alaska). For pneumatic controllers, EPA maintains that there is a technically feasible option available for all production, processing, transmission, and storage sites, except for sites in Alaska without access to electricity. Therefore, the proposed Quad Ob does not include any alternative non-zero emission standards for pneumatic controllers. This is a concern to certain WESTAR member states beyond Alaska. There are oil and gas facility locations in Montana, Wyoming, and North Dakota that are extremely remote, do not have access to electrical power, and experience extreme temperature shifts that make certain technology like solar and/or batteries infeasible. Therefore, remote states in the West should be granted similar exemptions as EPA has granted in Alaska.

The WESTAR Council appreciates the opportunity to provide comments. If you have questions or need further information, please contact WESTAR's executive director, Mary Uhl (maryuhl@westar.org).

Sincerely,


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