EUROPEAN UNION ADOPTS LEGISLATION TO TACKLE METHANE EMISSIONS

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EU Policy and Regulatory Alert

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The Council of the European Union adopted a regulation on the reduction of methane emissions in the energy sector (Regulation). Methane is the second-biggest cause of climate change after carbon dioxide, and in the short term has a far higher warming effect.

The adoption marks the first EU legal attempt to curb the energy sector's methane emissions both in Europe and globally. It is another step in the implementation of the European Green Deal, and it directly supports the Global Methane Pledge, a joint EU/US initiative launched at COP26 with 155 participating countries, which seeks to reduce global methane emissions by at least 30% from 2020 levels by 2030.

The Regulation obliges the fossil gas, oil, and coal companies in Europe to measure, monitor, report, and verify their methane emissions in accordance with the highest monitoring standards and take action to reduce them, e.g. through leak detection and repair (LDAR). It also requires them to eliminate avoidable and routine flaring and to limit flaring and venting to situations such as emergencies, technical malfunctions, or safety necessities. Finally, the legislation aims to reduce methane emissions from imported fossil fuels. It will gradually impose more stringent requirements to ensure that third-country exporters progressively adopt the same monitoring, reporting, and verification obligations as EU operators.

Key elements of the Regulation, including requirements for EU and non-EU natural gas, oil, and coal companies, include:

MONITORING AND REPORTING

Companies will have to quantify their methane emissions at a source level (e.g. a well) for oil, gas, and coal and at site level for oil and gas. Where direct measurement is not possible, reporting shall involve the use of specific emission factors based on source-level quantification or sampling. A yearly reporting obligation will start in 2025, and companies will have to report to the national competent authorities where the asset is located.

Before submitting, companies will have to ensure that the report is assessed by an independent verifier and includes a verification statement issued in accordance with the Regulation. The European Commission (Commission) will adopt a reporting template for the reports through an implementing act, taking into account the national inventory reports already in place and the latest technical guidance documents and reporting templates of the Oil and Gas Methane Partnership 2.0 (OGMP 2.0) the United Nations' flagship oil and gas reporting and mitigation programme.

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LDAR

In addition to monitoring and reporting, companies will be obliged to take all appropriate mitigation measures to prevent and minimise methane emissions, with leak detection and repair (LDAR) at the core of these efforts. From 2025 for existing sites and within six months from the date of start of operations for new sites, companies will need to submit leak detection and repair programmes to the competent authorities, including detailed surveys and planned repair and containment actions. They will have to carry out surveys on methane-emitting components and use detection devices in line with specific minimum detection limits and latest detection techniques to be set by the Commission at a later stage via an implementing act. The frequency of surveys will differ based on the type of installations (e.g. aboveground, underground) and, for pipelines, according to the material they are constructed from. Once detected, companies must repair or replace components that are leaking beyond specific levels and continue to monitor them after the repairs.

VENTING AND FLARING

The Regulation imposes strict limits on routine venting and flaring, i.e. intentional release of methane into the atmosphere either directly or by combusting it, often justified for safety, operational, or regulatory reasons. As a general rule, routine venting and flaring will be banned by the Regulation, unless it is deemed to be unavoidable and strictly necessary because it cannot be completely eliminated or is necessary for safety reasons, e.g. during repairs, test procedures, decommissioning, and other instances established by the legislation. In addition, flaring will be allowed only where either reinjection, on-site utilisation, storage for later use, or dispatch of methane to a market are not feasible for reasons other than economic considerations.

The legislation also obliges companies to report flaring and venting events caused by an emergency or a malfunction or lasting for an extended period of time to the competent authorities.

REQUIREMENTS FOR ENERGY IMPORTS

In addition to setting requirements and obligations for the EU based oil, gas, and coal industry, the Regulation also aims to regulate methane emissions from fossil-fuel imports. Addressing the upstream segment of the supply chain is a critical part of the legislation, considering that the European Union is a major importer of fossil fuels, notably natural gas and oil. The obligations for energy importers will be implemented across three stages:

Reporting Obligation

Starting in 2025, importers of crude oil, natural gas, and coal into the European Union will be required to report annual methane emissions data, including details from exporting countries and companies.

For example, importers will have to report if the producer or the exporter is carrying out source and site-level measurement and quantification, whether that data is subject to independent third-party verification and whether they are in compliance with United Nations Framework Convention on Climate Change (UNFCCC) reporting requirements or with OGMP 2.0 standards, etc.

MRV (Monitoring, Reporting, Verification) Equivalence

As of January 2027, the Regulation further requires that new import contracts for oil, gas, and coal can only be concluded if the same monitoring, reporting, and verification obligations are applied by exporters as for EU

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producers. This rule applies only to new contracts signed after the legislation comes into force (mid-2024), or contracts renewed after this date.

The legislation sets out detailed criteria to determine whether the third country's monitoring, reporting, and verification measures shall be considered equivalent to those set out in the Regulation. The Commission will play an active role through implementing legislation to establish whether the third country fulfils all the conditions. The equivalence procedure may be initiated at the request of a third country or the Commission.

Methane Intensity Thresholds

From 2028, fossil fuel importers will be obliged to report the methane intensity of the production of oil, gas, and coal that they are placing on the EU market.

From 2030, energy importers will have to demonstrate to national authorities that the methane intensity of the production of oil, gas, and coal placed on the EU market is below the maximum methane intensity values. Failure to comply with this requirement will not lead to an outright import ban but would result in financial penalties.

Both the methodology to calculate methane intensity as well as maximum intensity values will be designed by the Commission through secondary legislation in the coming years.

To ensure a level playing field, the methane intensity requirements will apply to both energy importers and EU producers.

NEXT STEPS

The Regulation will take effect on the 20th day after its publication in the Official Journal of the European Union, around approximately July 2024. Within six months of this date, EU member states must designate the appropriate national authorities to ensure effective compliance with the legislation.

In the next few years, the Commission will introduce the necessary secondary legislation, outlining the obligations for EU operators and competent authorities, as well as for fossil energy importers.

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