

April 2022

**BSP opinion on the:
Proposal for a Regulation on methane emissions reduction in the energy sector**

Business and Science Poland welcomes the possibility to comment on the proposal for Regulation on the reduction of methane emissions in the energy sector. We would like to draw the attention to several solutions that in our opinion still require more clarification or we perceive too restrictive and may adversely affect the energy market.

Scope (Article 11)

The article 11 regulates reduction of methane emissions in the oil and gas sector, but treats equally activities such as oil and gas exploration and extraction, refining, storage and transmission. The listed activities have common elements, however the number of emissions will vary significantly depending on the type of activity. They need more precise definition in the Regulation, otherwise we presume that it may constitute, in the future, an interpretation problem for the addressees under new rules.

Particularly scope of *oil and fossil gas upstream exploration and production, fossil gas gathering and processing* needs further clarification. We have doubts whether the scope of this term covers industrial activities that refine crude oil or use natural gas as a raw material or a fuel. Fugitive emissions of hydrocarbons are already the subject of other legal acts as the Directive on industrial emissions. Therefore, we see the need to resolve this issue and supplement Art. 2 of the proposed legal act with new definitions explaining each activity to which the Regulation will apply.

Leak detection and repair (Article 14)

Under the draft Regulation, operators will be required for the first time to prepare a leak detection and repair program. Therefore, we consider the both proposed date (appropriately 3 months and 6 months from the date of entry into force of this Regulation) to *submit a leak detection and repair programme to the competent authorities which shall detail the contents of the surveys and carry out a survey of all relevant components under their responsibility in accordance with the leak detection and repair programme* are deadlines too short to reasonably plan and conduct the work in a manner ensuring the optimal reduction of emissions.

The draft Regulation specifies a methane emission threshold of 500ppm and the obligation to repair or replace all elements in which methane emission above this level has been detected. In accordance with Polish regulations and mining technology, the detectors trigger an alarm at a concentration of 5000ppm (i.e. 10 times higher than the proposed), which is currently the maximum limit of the emission level. Therefore, the selection of measurement sites and an adequate the methane emitters monitoring tools is of crucial importance here. The entry into force of the new regulations, without taking into account the specificity of the monitoring area (e.g. activities with fugitive emissions: oil and gas mining), carries the risk of incurring additional expenses related to the installation of a number of sensors, measurement systems,

more accurate detectors or the employment of additional personnel to whom they will be entrusted new duties.

Excessive requirements for the replacement or repair of a leaking infrastructure element after exceeding the threshold of 500ppm emissions may result in the necessity to incur high costs for the replacement or repair of elements that may emit insignificant amounts of methane. In such a situation, the aspect of the extent of environmental protection should be analyzed, taking into account the carbon footprint caused by the production, delivery and installation of replaced or repaired parts.

Limits to venting and flaring, reporting, requirements for flaring standards (Articles 15-17)

An element of the exploration and production activity that may be significant for methane emissions is the release of gases into the atmosphere, or their burning by flares, as indicated in Articles 15 to 17. The provisions in the regulation introduce the possibility of releasing methane only in the event of an emergency. The provisions in the regulation introduce the possibility of releasing methane only “*in case of an emergency or malfunction*” and “*where unavoidable and strictly necessary for the operation, repair, maintenance or testing of components or equipment and subject to the reporting obligations*”

In addition, the draft regulation allows the flaring *where either re-injection, utilisation on-site or dispatch of the methane to a market are not feasible for reasons other than economic considerations.*

Routine flaring is performed for safety reasons, e.g. the combustion of residual hydrogen sulphide or aromatic hydrocarbons. Prohibiting routine flaring is a serious threat to the safety of the facility, public and environmental safety, therefore we consider it necessary to re-examine the justification for this ban. The necessity to present the validity of gas combustion, referred to in paragraph 5 of this article, seems unnecessary, because such justification results directly from the mining technique.

Article 17 obliges operators to convert all flare stacks or other combustion devices into *combustion devices with an auto-igniter or continuous pilot and a complete destruction removal efficiency for hydrocarbons* within 12 months from the date of entry into force of this Regulation. The deadline set out in the regulation may prove insufficient given the number of steps required to complete this process. In connection with the above, we emphasize the need to analyze this issue in terms of extending the above-mentioned deadline in a way that allows for safe implementation of the obligation.

We consider it reasonable that exempt from the obligation to report flares that operate as part of the provision safety, i.e. marginal methane emissions associated with flame support in the case of an emergency as required by Article 17.

Inactive wells (Article 18)

Another important element, in our opinion, is the need for clarification regarding monitoring of inactive wells. The regulation introduces the necessity to constantly monitor methane emissions in the area of closed wells, without specifying the end date by which this activity should be performed. Moreover, the necessity to remove the causes of methane emissions and restore the

environment to a state that does not cause emissions is indicated. In the areas where mining activities are carried out, there may be hundreds of liquidated wells, not necessarily the entity that holds the concession.

In the case of wells closed at sea which have been fully eliminated, installation of fixed devices monitoring methane emissions will be extremely complicated. Initial estimation the cost of such a procedure can be compared to making one well.

The operators' obligation to measure and report methane emissions from all wells out of service will be extremely difficult and costly to implement. In the case of sea, the reporting obligation will require costly testing and regular sampling of bottom sediments from the regions of the wells. In our opinion, the presented issues require further analysis.

Methane emissions occurring outside the Union (article 27-29)

We see a potentially significant impact of the proposed Regulation on the import of raw materials. The Regulation only proposes to introduce information obligations on fossil fuels in the context of methane emissions. However, in the justification, it can already be read that ultimately the entities importing and processing oil and gas will probably have to comply with emission limits for the raw material they use.

Depending on the detailed solutions, especially the level of such limits, it may turn out that it will be necessary to abandon cheaper delivery options in favor of more expensive, but less emission-intensive ones. Additionally, differences in emissions resulting from deliveries via pipelines and sourcing from the sea may have a negative impact on the possibilities of diversifying oil and gas supplies. Such consequences would be unacceptable in a situation of ongoing war on beyond the eastern border of the EU and it is necessary to abandon the import of raw materials from the Russian Federation as soon as possible.

Furthermore, in our opinion, the regulation should clarify whether its scope applies only to upstream activities. It would be an unambiguous position whether the requirements set out in the draft Regulation would additionally include installations for the processing of natural gas, e.g. installations for the production of hydrogen commonly present in crude oil refineries.

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